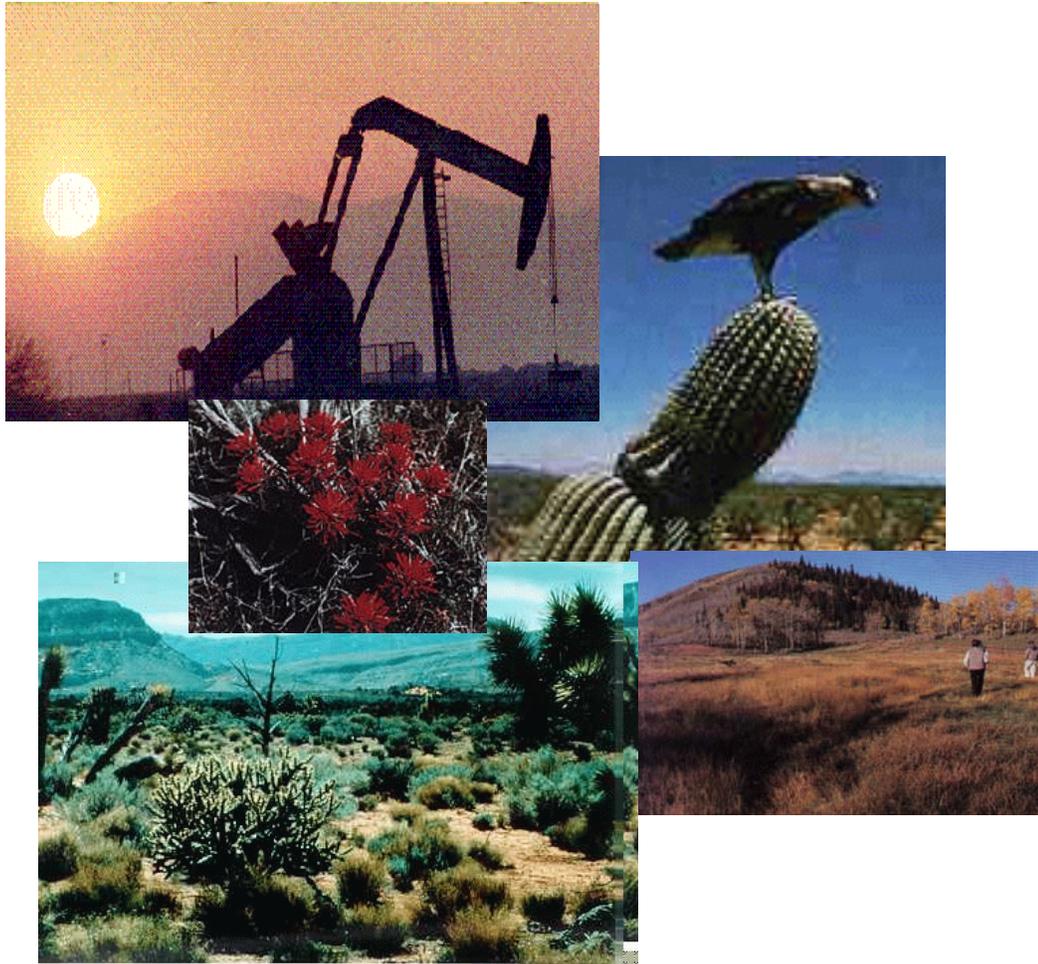




United States
Department of the Interior
Bureau of Land Management

Land Use Planning Handbook



BLM Handbook H-1601-1

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I. Introduction

A. The purpose of this Handbook and the need for planning guidance.

This Handbook provides supplemental guidance to Bureau of Land Management (BLM) employees for implementing the BLM land use planning requirements established by Sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1711) and the regulations in 43 CFR 1600. Land use plans and planning decisions are the basis for every on-the-ground action the BLM undertakes.

Land use plans ensure that the public lands are managed in accordance with the intent of Congress as stated in FLPMA (43 U.S.C. 1701 *et seq.*), i.e., under the principles of multiple use and sustained yield. As required by FLPMA, the public lands must be managed in a manner that protects the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use by encouraging collaboration and public participation throughout the planning process. In addition, the public lands must be managed in a manner that recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands. Land use plans are one of the primary mechanisms for guiding BLM activities to achieve the mission and goals outlined in the BLM Strategic Plan.

This Handbook provides guidance for preparing and amending land use plan decisions through the planning process, and for maintaining both Resource Management Plans (RMPs) and Management Framework Plans (MFPs). This Handbook also provides guidance for developing subsequent implementation plans and decisions. It builds on field experience gained in implementing the 1983 planning regulations (43 CFR 1600) and subsequent BLM Manual guidance. This guidance does not, however, change or revise the planning regulations in 43 CFR 1600, which take precedence over this Handbook. Definitions for terms used in this Handbook are found in the glossary and in the BLM planning regulations in 43 CFR 1601.0-5.

Any interpretation of the guidance contained in this Handbook is subservient to the legal and regulatory mandates contained in FLPMA, 43 CFR 1600, the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality regulations at 40 CFR 1500-1508, and other applicable Federal laws and regulations. This planning guidance:

1. Encourages planning on a variety of scales, including both traditional RMPs at the local level and RMPs as part of larger regional-level plans, as well as combinations of these in partnership with other landowners and agencies;

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2. Encourages greater public participation throughout the planning process and facilitates multijurisdictional planning;
3. Clarifies the relationship between land use plans and implementation plans;
4. Provides procedural requirements for completing land use plans and implementation plans;
5. Clarifies the relationships between land use and implementation planning and NEPA requirements;
6. Addresses new requirements and approaches for managing public lands or resources; and
7. Addresses the consideration of new information and circumstances, e.g., new listings of threatened and endangered species, new requirements and standards for the protection of air and water quality, etc.

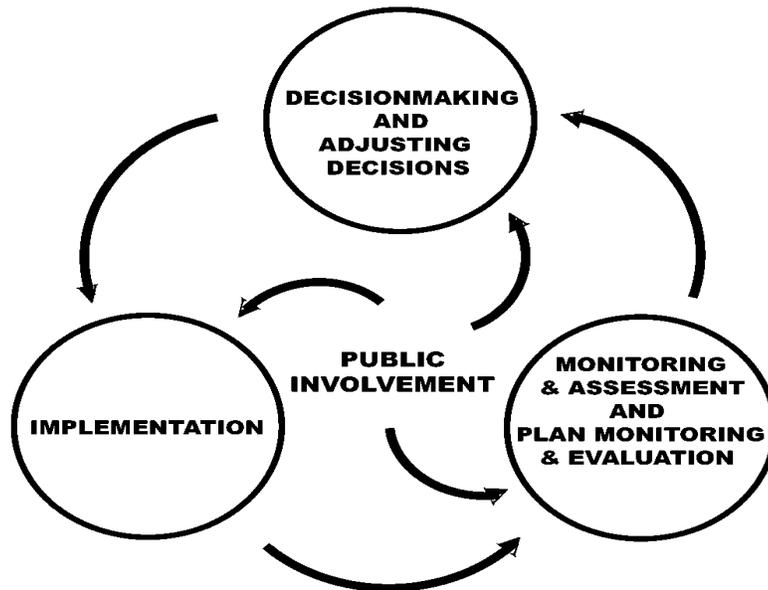
B. The basic planning process.

Section 202 (a) of FLPMA states: “The Secretary shall, with public involvement . . . develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands” (43 U.S.C. 1712). The regulations for making and modifying land use plans and planning decisions are found in 43 CFR 1600.

The BLM will use an ongoing planning process to ensure that land use plans and implementation decisions remain consistent with applicable laws, regulations, orders, and policies. This process will involve public participation, assessment, decision making, implementation, plan monitoring, and evaluation, as well as adjustment through maintenance, amendment, and revision. This process is illustrated on Figure 1.

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FIGURE 1 - OVERVIEW OF PLANNING RELATIONSHIPS



This process allows for continuous adjustments to respond to changed circumstances. The BLM will make decisions using the best information available. These decisions may be modified as BLM acquires new information and knowledge of new circumstances relevant to land and resource values, uses, and environmental concerns. Modifying land use plans through maintenance and amendment on a regular basis will reduce the need for major revisions of land use plans.

C. Public involvement requirements and formal relationships.

Several laws and Executive Orders set forth public involvement requirements, including maintaining public participation records. The BLM planning regulations (43 CFR 1601-1610) and the CEQ regulations (40 CFR 1500-1508) both provide for specific points of public involvement in the environmental analysis, land use planning, and implementation decision-making processes to address local, regional, and national interests. The NEPA requirements associated with planning have been incorporated into the planning regulations. The CEQ regulations further require timely coordination by Federal agencies in dealing with interagency issues (see 40 CFR 1501.6), and in avoiding duplication with tribal, State, county, and local procedures (see 40 CFR 1506.2). For NEPA analyses associated with land use plans, BLM should offer qualified tribal, Federal, State, and local government entities either cooperating agency or joint lead status as defined in 40 CFR 1508.5. This cooperation should be formalized through an agreement. Sections III.B, D, and E of this Handbook outline formal public involvement points and procedures for consultation and coordination with other government entities.

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It is recommended that Resource Advisory Councils (RACs) or their functional equivalent be involved in the land use planning process. RACs, which are advisory groups chartered under the Federal Advisory Committee Act (FACA) (86 Stat. 770, 5 U.S.C.A., Appendix 2), may advise the BLM regarding the preparation, amendment, and implementation of land use plans for public lands and resources within a jurisdictional area. In addition, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Environmental Justice), February 11, 1994, requires BLM to find ways to communicate with the public that are germane to community-specific needs in areas with low income or minority populations or tribes.

Comments submitted to BLM for use in its planning efforts, including names and home addresses of individual(s) submitting the comments, are subject to disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552); however, names and home addresses of individuals may be protected from disclosure under exemption 6 of the Freedom of Information Act (FOIA). In order to protect names and home addresses from public review or disclosure, the individual(s) submitting comments must request that their names and addresses be held in confidence. Offices must place the following or a similar statement in all notices requesting public input, including notices in newspapers, on the Internet, in *Federal Register* Notices of Intent and Notices of Availability, and in “Dear Interested Party” letters in the EA/EIS: “FREEDOM OF INFORMATION ACT CONSIDERATIONS: Public comments submitted for this planning review, including names and street addresses of respondents, will be available for public review at the XYZ Field Office during regular business hours (x:xx a.m. to x:xx p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.”

D. Collaborative planning.

Collaboration as a general term describes a wide range of external and internal working relationships. BLM managers need to determine, in advance, the most appropriate, efficient, and productive type of working relationships to achieve meaningful results in land use planning initiatives.

While the ultimate responsibility regarding land use plan decisions on BLM-administered lands rests with BLM officials, managers have discovered that individuals, communities, and governments working together toward commonly understood objectives yields a significant improvement in the stewardship of public lands. Benefits of building collaborative partnerships include improving communication, developing a greater understanding of different perspectives, and finding solutions to issues and problems.

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A collaborative approach to planning entails BLM working together with tribal, State, and local governments; Federal agencies; and other interested parties, from the earliest stages and continuing throughout the planning process, to address common needs and goals within the planning area. This is an excellent time to consider existing plans of tribal, State, and local governments and other Federal agencies. The BLM official must identify the decision space (i.e., regulations, policies, and local, regional, national interests) within which BLM must operate, but the community or group working with BLM may help focus the planning effort.

Although the initial stages of developing an open and inclusive process are time-consuming, the potential returns from relationship building, cost-savings, and durability of decisions more than compensate for this effort. To provide for effective public participation in any collaborative planning process, it is important to communicate effectively with the public and invite participation in all aspects of the planning effort. Outreach to distant interests is also important. An effective outreach strategy will inform distant publics as well as local residents. Appendix A of this Handbook provides additional guidelines on collaborative processes.

Alternative Dispute Resolution (ADR) processes, in which parties are assisted by a neutral third party, may be useful in cases where planning progress is blocked by polarization. (Refer to BLM's Natural Resources Alternative Dispute Resolution Strategic Plan, 9/11/97, available at BLM State Offices.)

In using the collaboration and ADR processes, it is important to be aware of the situations where FACA does or does not apply so that you can make an informed decision to either avoid conflict with FACA or pursue a FACA charter for any advisory groups (see Appendix B). Failure to review collaborative planning efforts and the requirements of FACA could result in land use plans being overturned if challenged in court. The Congress passed FACA in 1972 to reduce narrow, special-interest group influence on decisionmakers, to foster equal access for the public to the decision-making process, and to control costs by preventing the establishment of unnecessary advisory committees.

E. Multijurisdictional planning.

Within a planning area, BLM surface lands and subsurface mineral estate interests are often intermingled with non-Federal mineral estate, or with lands that are managed by or under the jurisdiction of tribal, State, or local governments or other Federal agencies. As an outgrowth of these landownership patterns and responsibilities, other governmental entities and BLM have increasingly sought to coordinate their decisions and plans.

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Multijurisdictional planning assists land use planning efforts where there is a mix of landownership and government authorities and there are opportunities to develop complementary decisions across jurisdictional boundaries. In these instances, planning could be accomplished for sub-basins, entire watersheds, or other landscape units. A multijurisdictional plan may include both land use and implementation decisions that are germane to each jurisdiction involved in the planning effort. However, BLM still retains authority for decisions affecting the public lands it administers. The BLM office leading or participating in a multijurisdictional plan must assure conformance with BLM's planning regulations, as well as all other applicable laws and regulations for the BLM-administered lands. This can be accomplished by completing the notification, public review, and procedural requirements of 43 CFR 1600 and 40 CFR 1500-1508 as part of the multijurisdictional planning effort.

In cases where BLM-administered lands make up a small part of the planning area, it may be desirable for other jurisdictional interests to lead the planning effort. The BLM may act as a facilitator, convener, leader, or participant, as appropriate, to encourage positive relationships and to develop a mutual understanding of resource conditions and multiple-use management options. In some cases, the lead role may be defined by law. In most cases, planning procedures of tribal, State, or local governments and other Federal agencies will differ from those of BLM. Therefore, successful multijurisdictional planning efforts are normally guided by Memorandums of Understanding (MOU), which clearly delineate lines of authority and roles and responsibilities for all participants, including BLM.

H-1601-1 LAND USE PLANNING HANDBOOK**II. Land Use Plan Decisions****A. Introduction.**

Land use plans guide management actions on the public lands covered by the plan. Land use plan decisions establish goals and objectives for resource management (i.e., desired future conditions), the measures needed to achieve these goals and objectives, and parameters for using BLM lands. They identify lands that are open or available for certain uses, including any applicable restrictions, and lands that are closed to certain uses. Land use plan decisions ordinarily are made on a broad scale and customarily guide subsequent site-specific implementation decisions. Section 202 (c) of FLPMA (43 U.S.C. 1712) requires that in developing land use plans, the BLM:

1. Use and observe the principles of multiple use and sustained yield;
2. Use a systematic interdisciplinary approach to integrate physical, biological, economic, and other sciences;
3. Give priority to designating and protecting areas of critical environmental concern (ACECs);
4. Rely, to the extent available, on an inventory of public lands, their resources, and other values;
5. Consider present and potential uses of public lands;
6. Consider the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values;
7. Weigh long-term benefits to the public against short-term benefits;
8. Provide for compliance with applicable tribal, Federal and State pollution control laws, standards, and implementation plans; and
9. To the extent consistent with the laws governing the administration of public lands, coordinate the land use inventory, planning, and management activities of public lands with land use planning and management programs of other Federal departments/agencies and State/local governments, as well as the policies of approved tribal and State land resource management programs. To the extent practical, BLM must assure that consideration is given to those tribal, State, and local plans that are germane in the development of land use plans for public lands. Land use plans must be consistent with State and local plans to the maximum extent consistent with Federal law. Refer to FLPMA for the full text of Federal responsibilities detailed under Section 202 (c)(9).

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Where there are competing resource uses and values in the same area, FLPMA requires that BLM manage the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people. Land use plan decisions are made according to the procedures in BLM's planning regulations in 43 CFR 1600 and the implementing regulations for NEPA in 40 CFR 1500-1508. Before land use plan decisions are finalized and selected, they must be presented to the public as proposed decisions and can be protested to the Director under 43 CFR 1610.5-2 (see Appendix F).

It is BLM policy to make decisions on a broad scale in land use plans. In some cases, there are certain site-specific implementation decisions that can be made through the RMP process. These are exceptions and are normally limited to those required by regulation, such as designating off-highway vehicle (OHV) areas, roads, and trails (see 43 CFR 8342). These types of proposed implementation decisions, when included in an initial broad land use plan, are protestable to the BLM Director. This policy is supported by regulation and Interior Board of Land Appeals (IBLA) case law. Implementation decisions developed through subsequent planning (i.e. plan amendments and implementation planning) *after* an initial land use plan is approved are generally appealable to the IBLA (see Appendix F: Summary Protest and Appeal Provisions).

B. Types of land use plan decisions.

Land use plan decisions for public lands fall into two categories: desired outcomes (goals, standards, and objectives), and allowable uses and actions to achieve desired outcomes.

1. Desired outcomes.

Land use plans must express desired outcomes or desired future conditions in terms of specific goals, standards, and objectives. These are identified to direct BLM's actions in most effectively meeting legal mandates, such as the Endangered Species Act; numerous regulatory responsibilities; national policy, including BLM Strategic Plan goals; State Director guidance (see 43 CFR 1610.0-4 (b)); and other resource or social needs.

Goals are generally broad statements of desired outcomes (e.g., maintain ecosystem health and productivity, promote community stability, ensure sustainable development). They are usually not quantifiable.

Standards are descriptions of physical and biological conditions or the degree of function required for healthy, sustainable lands (e.g., land health standards). Standards may address both site-specific and landscape or watershed-scale conditions. The regulations in 43 CFR 4180 require State Directors, in consultation with RACs, to develop rangeland health standards for lands within their jurisdiction. The BLM has agreed to work with the RACs to expand these rangeland health standards so that there are public land health standards that are relevant in all ecosystems, not just rangelands, and that apply to all actions, not just livestock grazing.

Land health standards are to be incorporated into all new land use plans and into all

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existing land use plans through the maintenance, amendment, or revision processes. For those offices that have developed land health standards using processes other than the land use planning process, standards may be incorporated into land use plans through a plan maintenance action if the following requirements are met: (1) land health standards are substantially the same as or are in conformance with existing land use plan decisions, and (2) the impacts of the land health standards on all resources and uses have been adequately addressed through the NEPA process. New land health standards and any previously developed standards that do not meet these requirements must be developed and incorporated through the land use plan amendment or revision process.

The land use plan must identify how land health standards are to be considered in relationship to the management prescription for, and uses and activities occurring on, public lands. Some actions, by their very nature, will have an adverse effect on attainment of land health standards at some spatial scales (e.g., mineral development, road construction, or developed recreation sites). The land use plan should address under what conditions such adverse effects are permissible and at what spatial and temporal scale attainment is determined. The land use plan may determine that certain land health standards be applied and evaluated on a relatively broad spatial scale and over a long timeframe.

Objectives identify specific desired conditions for resources. Objectives have established time frames, as appropriate, for achievement and are usually quantifiable and measurable (e.g., manage vegetative communities on the upland portion of the Clear Creek watershed to achieve by 2020, an average 30 to 40 percent canopy cover of sagebrush to sustain sagebrush-obligate species).

2. Allowable uses and actions to achieve desired outcomes.

a. Allowable uses. Land use plans must identify uses, or allocations, that are allowable on the public lands and mineral estate. These allocations identify surface lands and/or subsurface mineral interests where uses are allowed, including any restrictions that may be needed to meet goals, standards, and objectives. Land use plans also identify lands where specific uses are excluded to protect resource values. Certain lands may be open or closed to specific uses based on legislative, regulatory, or policy requirements or criteria to protect sensitive resource values. If land use plans close areas of 100,000 acres or greater in size to a particular use, Congress must be notified of the closure as prescribed in 43 CFR 1610.6.

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The land use plan must set the stage for identifying site-specific resource use levels. Site-specific use levels are normally identified during subsequent implementation planning or the permit authorization process. At the land use plan level, it is important to identify reasonable development scenarios for allowable uses such as mineral leasing, locatable mineral development, recreation, timber harvest, utility corridors, and livestock grazing to enable the orderly implementation of future actions. These scenarios provide a context for the land use plan's decisions and an analytical base for the NEPA analysis. The BLM may also establish criteria in the land use plan to guide the identification of site-specific use levels for activities during plan implementation.

b. Actions needed to achieve desired outcomes. Land use plans must identify the actions needed to achieve desired outcomes, including actions to restore or protect land health. These actions include proactive measures (e.g., measures that will be taken to enhance watershed function and condition), as well as measures or criteria that will be applied to guide day-to-day activities occurring on public land.

While protection and restoration opportunities and priorities are often related to managing specific land uses, such as commodity extraction, recreation, or rights-of-way corridors, they can be independent of these types of uses as well. In certain instances, it is insufficient to simply remove or limit a certain use, because unsatisfactory resource conditions may have developed over long periods of time and will not correct themselves without management intervention. For example, where exotic invasive species are extensive, active restoration may be necessary to allow native plants to reestablish and prosper. In these cases, identifying restoration opportunities and setting restoration priorities are critical parts of the land use planning process.

Land use plans also establish administrative designations such as ACECs, recommend proposed withdrawals, and recommend or make findings of suitability for congressional designations, e.g., wild and scenic rivers.

Appendix C provides additional program-specific guidance and supporting Manual references for determining allowable uses and actions, resource-specific use levels, and special designations.

c. Land tenure decisions. Land tenure decisions are those decisions that identify lands for retention (see 43 CFR 2400), proposed disposal, or acquisition (based on acquisition criteria). Section 102 (a) (1) of FLPMA requires that BLM-managed lands be retained in Federal ownership unless BLM determines through the land use planning process that disposal of a particular parcel will serve the national interest (43 U.S.C. 1701). Land tenure decisions must achieve the goals, standards, and objectives outlined in the land use plan.

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There are two distinct sets of criteria in FLPMA for evaluating whether disposal will serve the national interest. One set is for disposal by sale and the other is for disposal by exchange.

Land disposal by public sale is addressed in Section 203 (a) of FLPMA. This section contains three criteria to apply in identifying public lands suitable for disposal by public sale. The criteria, as paraphrased, are that: (a) the tract of public land is difficult and uneconomical to manage as part of the public lands and is not suitable for management by another Federal department or agency; (b) the land is no longer required for a specific purpose; or (c) disposal will serve important public objectives.

The criteria for determining which public lands or land interests are available for disposal by exchange are covered in Section 206 (a) of FLPMA. These criteria require the BLM to consider the public interest by giving full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife. The criteria also require that the public objectives that Federal lands or interests to be conveyed may serve, if retained in Federal ownership, must not be more than the values of the non-Federal lands or interests and the public objectives they could serve, if acquired.

In addition to identifying land suitable for disposal through sale or exchange, the land use plan may identify lands as possibly suitable for disposal under other authorities, including State indemnity selections, agricultural entries, and conveyance under the Recreation and Public Purposes Act. Whether a specific tract of public land will be found suitable for disposal or retention is determined through a classification decision rendered pursuant to Section 7 of the Taylor Grazing Act (see 43 U.S.C. 315f) and in accordance with the applicable regulations in 43 CFR 2400. During land use planning, the classification process under 43 CFR 2400 should be applied.

The BLM may identify disposal areas by parcel or by specific areas that would be subject to disposal based on the application of the specific disposal criteria (FLPMA, Section 203 or 206) and other evaluation factors (e.g., resource values and concerns, accessibility, public investment, encumbrances, community needs) identified in the land use plan. It must be clear to the public that all lands within areas covered by any disposal criteria may be transferred out of Federal ownership based on the application of such criteria. To accomplish this, the land use plan must be explicit as to: (1) the location of the lands involved, illustrated either on a map of sufficient detail and scale to be clearly understood by the public, or by legal description; (2) the disposal authorities under which the lands may be conveyed (the land use plan may identify lands for disposal under several authorities, pending the application of disposal criteria during plan implementation); (3) the criteria that must be met in order to allow conveyance; and (4) the management objectives to be served by the disposal action.

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Section 205 (b) of FLPMA (43 U.S.C. 1715), as paraphrased, requires that acquisitions of land, or interests in land, be consistent with the BLM mission and applicable agency land use plans. Land use plans generally identify acquisition needs by establishing criteria to use in evaluating land acquisition opportunities. The criteria should encompass opportunities that may arise from future exchange, purchase, and donation proposals. Plans may also establish criteria for support needs associated with opportunities for the acquisition of interests in land, such as acquiring access easements and water rights needed for implementing the plan's objectives and decisions.

C. Establishing management direction for lands that may come under BLM jurisdiction in the future.

If it is foreseeable that the BLM will acquire management responsibility for certain parcels of land in the future through purchase, exchange, withdrawal revocation, administrative transfers, or some other means, then BLM can establish management direction for these lands, contingent on their acquisition, in conjunction with planning efforts on adjacent or similar BLM-administered lands.

If acquired lands are surrounded by or adjacent to BLM lands, BLM can extend applicable land use plan decisions, through plan maintenance (see 43 CFR 1610.5-4), to these land after they are acquired without completing a plan amendment as long as there are no unresolved management issues associated with the newly acquired lands. In some cases, regulatory requirements may dictate a plan amendment be completed, such as when establishing or modifying boundaries of ACECs.

D. Making land use plan decisions at different geographic scales.

The State Director authorizes the extent or scope of a planning area (43 CFR 1610.1 (b)). Scales of planning and decisions may vary from national to site-specific, providing a comprehensive base for resource management. Planning at multiple scales may occur when it is necessary to resolve issues for a geographic area that is different from the geographic area covered by a traditional RMP. For example, broad-scale (regional) planning could identify issues such as invasive weeds that cross BLM field office boundaries or other jurisdictional boundaries.

Planning at multiple geographic scales allows BLM to tailor decisions to specific needs and circumstances, such as specific habitat requirements on a large watershed area. It enhances public involvement by allowing the public to focus on the scale where specific interests lie. It also provides decision-makers with the proper information for particular levels of decision making. The geographic extent of the study area and data requirements can be tailored to the specific issues and policies that BLM must address.

H-1601-1 LAND USE PLANNING HANDBOOK**III. Development of Land Use Plan Decisions****A. General Process for making land use plan decisions.**

1. Identify issues and concerns through a scoping process. This scoping process is the same process required by the CEQ regulations in 40 CFR 1501.7. Through this process, land use issues and conflicts that need to be resolved are identified. These issues may stem from such things as new information or changed circumstances, the need to address environmental protection concerns, or a need to reassess the appropriate mix of allowable uses based on new information obtained through the assessment process.

At the earliest opportunity, the public, Indian tribes, other Federal agencies, and State and local governments are notified that the BLM is considering planning actions and are invited to participate. The notice to Indian tribes, other Federal agencies, and State and local governments should include a request for the current status of their officially approved or adopted resource-related plans, and the policies and programs contained therein. Specific Notice of Intent (NOI) requirements are identified in Section III.B below. In addition to the NOI requirements, BLM managers should take whatever measures they feel necessary to ensure all interested parties are notified of upcoming planning actions.

2. Assess information. In general, assessment is the process of synthesizing, analyzing, and interpreting data and information for a defined purpose. It differs from inventory and monitoring, which are both primarily data collection activities. Assessments may address various resource values or programs and may be prepared at various scales (e.g., integrated scientific, regional, watershed, landscape, rangeland health, mineral, etc.). Assessments may draw on data and information from a variety of sources, including the results of other assessments. Conclusions drawn from assessments facilitate informed decision making, but the act of assessment or the conclusions from assessments do not constitute decisions. Assessment information is also used in the environmental analysis component of the decision-making process. Assessments may facilitate the preparation of the analysis of the management situation described in the planning regulations (43 CFR 1610.4-4), or may be used by themselves to meet this requirement.

a. Assessment questions. Planning-related assessments generally address four key concepts: status, trend, risk, and opportunity.

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- (1) **Status** describes the present characteristics and condition of the public lands. Condition is determined by comparing the value of some characteristic to an established standard or historical benchmark. Status covers the physical and biological processes that effect ecosystem function; the condition of individual components such as soil, water, vegetation, and wildlife habitat; and the relative value and scarcity of the resources. It should also address social and economic conditions to understand how people, communities, and economies interact with the ecosystem. Appendix D provides additional detail on addressing social and economic considerations in the land use planning process.
- (2) **Trend** expresses the direction of change between the present and some point in the past or future.
- (3) **Risk** reflects the likelihood that something undesirable will happen if we continue (or discontinue) existing management or if we authorize (or fail to authorize) additional use. Risk expresses the vulnerability of the land and associated economic and social systems to various activities, both existing and contemplated.
- (4) **Opportunity** describes the degree to which we can expect improvement in resource condition or reduced risk if we undertake some action. It reflects not only the inherent capability of the land to respond to management or treatment, but also the influence of social and economic factors.

b. Scale and jurisdictional considerations. Traditionally, planning-related assessments have been limited to BLM-administered lands within a single Resource Area/Field Office or smaller geographic unit. Data resolution has been mostly fine scale. However, management decisions may well be influenced by activities and conditions on intermingled nonpublic lands and on adjacent lands beyond the planning area boundary. As such, assessment data and information may span multiple scales, land ownerships, and jurisdictions.

Broad-scale information reveals characteristics not readily apparent at finer scales (e.g. habitat fragmentation) and also responds to criticism that past efforts have been too narrow in scope to adequately address important issues (e.g., weed invasion, oil and gas development, and wide-ranging species conservation).

Assessments that extend beyond the planning area boundary allow management decisions to be made within the context of overall resource conditions and risks that exist within the surrounding area. This also facilitates the analysis of cumulative effects during the NEPA process.

While it is necessary for planning purposes to understand the cumulative effects of activities on lands outside BLM's jurisdiction, the BLM has authority to take management action only on the public lands it administers.

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c. **Indicators.** Status, trend, risk, and opportunity are all important considerations in land use planning. However, the factors that contribute to each are somewhat different and require different kinds of data and information. The sheer amount of information could easily become impractical. Therefore, indicators are often used as surrogates for factors or groups of factors that are either too expensive or too difficult to characterize directly. An indicator may also combine several measures into a composite rating or index. Selected indicators should be:

- (1) **Relevant.** Indicators must be relevant to the assessment questions. They should also be responsive to management so that changes due to management practices are detectable over a reasonable time period.
- (2) **Affordable.** The key is to select the minimum number of indicators necessary to answer the assessment questions. Selected indicators should take full advantage of multiple sources of information both from within BLM and from other agencies and organizations.
- (3) **Credible.** An indicator should be understandable to a diverse nontechnical audience and be supportable by the technical and scientific community. Understanding is fostered by avoiding highly technical terminology, bureaucratic jargon, and confusing acronyms. Scientific support depends on such things as using accepted measurement methods and defensible thresholds or criteria to distinguish between reportable classes (e.g., good condition/poor condition).

d. **Data and information.** Success in answering assessment questions depends on the availability of appropriate data and derived information.

- (1) **Data sources.** Much data and information already exist both from internal inventory and monitoring efforts and from other agencies, organizations, and private entities. In some instances, such data and information can be directly incorporated into the assessment process. More often, however, some reformatting or other processing will be required. Depending on the issues identified through scoping and the level of understanding of the condition of the land, there will be instances where pertinent information is lacking or insufficient to make the necessary decisions. The BLM field manager must determine whether and what additional data must be collected. Data needs may be guided by planning criteria developed for planning efforts.

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Managers of planning efforts are encouraged to use existing data compiled by tribes; other Federal agencies; State and local governments; and private organizations, if applicable, to address assessment questions. They are also encouraged to develop data partnerships both to reduce costs and to achieve more data standardization across jurisdictional boundaries. Regardless of source, sufficient metadata (data about data) should be provided to clearly determine the quality of the data, along with any limitations associated with its use.

- (2) **Data analysis and display.** Whether or not data and information can be effectively applied to answer assessment questions often depends as much on the availability of analytical models and tools as on the accessibility and quality of the data itself. Data without applicable models is no more useful than models without applicable data. A geographic information system (GIS) provides essential tools to bring data together at various scales and formats for spatial analysis and display of the results (maps). Spatial models, such as those used to predict erosion loss or to determine areas suitable or unsuitable for various uses, allow data to be applied in addressing management issues.
- (3) **Data management.** Although each land use plan will have its own specific data requirements, some base mapping themes are common to all planning efforts. For example, the Public Land Survey System (PLSS) landnet, land status, and administrative/jurisdictional boundaries are base themes needed to define the geographic extent and the land base of any planning area. Other themes such as terrain, transportation, hydrography, and cultural features are also basic to any analysis effort. These themes should be routinely maintained to ensure they reflect the current situation. A variety of renewable and nonrenewable resource and socioeconomic data themes can then be added, depending on the management issues involved in the plan.

With regular updating and maintenance, the same geospatial data that supports the development of plans can be instrumental for plan implementation, monitoring, periodic assessment and modification. Maintaining high-quality geospatial data supports the planning process as well as a variety of other needs.

- (4) **Data Standards.** Data collection, data display, and data management need to meet required standards to promote efficiency, enhance data sharing capability, and facilitate consistency on a BLM-wide basis. Planning efforts must utilize approved data standards.

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e. Documentation of findings. Documentation supporting assessments and the management situation analysis should be assembled in a logical format and maintained in the field office for public review. This documentation must include, but is not be limited to, the assessment questions and all map products, along with associated narratives describing what the map portrays, the source of the data, and any limitations in applying and interpreting the information.

3. Identify desired outcomes. Based on the current status, trends, risks, and opportunities, identify desired outcomes that will address the issues identified. These outcomes are expressed as goals, standards, or objectives (see Section II.B.1.). Desired outcomes may be identified for natural resources and can take social and economic values into consideration. For example, a natural resources goal might be to restore riparian ecosystem functions on a particular watershed, which could also result in social or economic benefits. If there are issues or concerns regarding appropriate outcomes, a range of desired outcomes may be evaluated as alternatives in the planning process to determine the most appropriate outcomes to select as planning decisions.

4. Identify allowable uses and actions to achieve desired outcomes. Based on the evaluation of current status, trends, risks, and opportunities, identify allowable uses and land health protection and restoration measures to achieve the desired outcomes. These measures should be developed at a scale appropriate to the resources and issues involved. While conservation and restoration projects may be carried out at small physical, biological and temporal scales, their ultimate success often rests on the integration of these projects into processes at the landscape and bioregional scale. Additionally, it is the conservation of species and habitats on a landscape level (i.e., broad scale) that will limit the need to list species under the ESA.

When identifying allowable uses consider resource development potential, levels of use, and restrictions to best achieve the goals, standards, and objectives. These uses and restrictions are based on resource protection needs and social and economic factors, and represent the most appropriate mix of uses for the land. Different protection and restoration measures and the availability of areas for certain uses, levels of uses, and restrictions are presented as alternatives in the land use plan and are evaluated in the associated NEPA document. In developing alternatives, the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values must be considered (43 U.S.C. 1712(c)(6)). For example, if some sites or areas require special management measures to protect natural resource values, the level of commodity production considered and allowed on that area would likely be less (or possibly not be allowed at all) than on a site that has no special requirements for resource value protection but is very well suited for commodity production.

Different levels or degrees of protection and use should be evaluated in different alternatives to determine which combination best meets the present and future needs of the American people and best assures the long-term health of the land and its resources. This evaluation should be based upon the informed judgment of the land manager, after consultation with staff and interested members of the public.

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The alternative that meets statutory requirements, best achieves the goals and policies of BLM as reflected through BLM's Strategic Plan and State Director guidance, and best resolves the issues pertinent to the planning effort should be identified as the preferred alternative or proposed plan. Following public review, consistency determinations, and the protest process identified below, the approved plan and the rationale for its selection are identified in the decision document.

If low-income or minority populations or tribes exist in or adjacent to the planning area, the BLM must provide notice to, consult with, and evaluate the potential impact of BLM actions or inactions on those populations (Executive Order 12898, Environmental Justice). The CEQ publication *Environmental Justice - Guidance Under NEPA*, which has been distributed to all BLM State Offices, provides additional guidance.

B. Procedural requirements for making land use plan decisions.

BLM's nine-step planning process in 43 CFR 1600 falls within the framework of the NEPA decision-making process described in CEQ regulations in 40 CFR 1500-1508, the Department of the Interior NEPA Manual (516 DM 1-7), and the BLM NEPA Handbook H-1790-1. New RMPs and RMP revisions (a complete rewrite of the RMP) require an environmental impact statement (EIS). Land use plan amendments and a planning analysis require either an environmental assessment (EA) or EIS, depending on the significance of the proposed amendment and its environmental effects. A planning analysis must be completed using the same procedures as land use plan amendments.

Procedural requirements for land use planning in 43 CFR 1600 are the same as procedural requirements for NEPA, except as outlined below. The following list includes only requirements of BLM's planning process that are not imposed by the NEPA guidance. (For an overview of the complete plan and plan amendment process, refer to Appendix E.)

1. A **Notice of Intent** (NOI) is published in the *Federal Register* to begin an EA-level plan amendment because the planning regulations mandate an NOI to initiate public participation in the planning process (see 43 CFR 1610.2 (c)). For EIS-level plans, revisions, or amendments, the NOI must meet the requirements of both NEPA and the planning regulations. The NOI may identify preliminary planning criteria. Simultaneously with the *Federal Register* NOI, submit an NOI for circulation among State agencies. In addition, submit this notice to Federal agencies, the heads of county boards, other local government units, and Tribal Chairmen or Alaska native Leaders who have requested such notice, as well as any other entities/individuals or the manager feels would be concerned with the planning effort (See 43 CFR 1610.3-1(d)).

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2. **Planning criteria** are prepared to ensure decision making is tailored to the issues pertinent to the planning effort and to ensure BLM avoids unnecessary data collection and analyses. BLM gives public notice and an opportunity for review of, and comment on, the planning criteria before they are approved (see 43 CFR 1610.2 (f) (2) and 1610.4-2). In giving public notice, BLM will use whatever means are needed to reach the audience. Use of e-mail and web pages is encouraged, but by themselves, these are not sufficient to notify the public.
3. At least a **90-day public review and comment period** is allowed on draft EISs prepared to analyze draft land use plan decisions (see 43 CFR 1610.2(e)).
4. **BLM's land use plans and amendments must be consistent** with officially approved or adopted resource-related plans of Indian tribes, other Federal agencies, and State and local governments to the maximum extent practical, given that BLM's land use plans must also be consistent with the purposes, policies, and programs of FLPMA and other Federal laws and regulations applicable to public lands (see 43 CFR 1610.3-2 (a)).

If these other entities do not have officially approved or adopted resource-related plans, then BLM's land use plans must, to the maximum extent practical, be consistent with their officially approved and adopted resource-related policies and programs. This consistency will be accomplished so long as BLM land use plans are consistent with the policies, programs, and provisions of public land laws and regulations (see 43 CFR 1610.3-2 (b)).

5. Before BLM approves proposed land use plan decisions, the **Governor(s) must have 60 days to identify inconsistencies** between the proposed plan and State and local plans and provide written comments to the State Director. (The BLM and the State may mutually agree upon a shorter review period satisfactory to both.) If the Governor(s) does not respond within this period, it is assumed that the proposed land use plan decisions are consistent. If the Governor recommends changes in the proposed plan or amendment that were not raised during the public participation process, the State Director shall provide the public with an opportunity to comment on the recommendations (see 43 CFR 1610.3-2 (e)). This public comment opportunity will be offered for 30 days and may coincide with the 30-day comment period for the Notice of Significant Change. If the State Director does not accept the Governor's recommendations, the Governor has 30 days to appeal in writing to the BLM Director (see 43 CFR 1610.3-2(e)).
6. There is a **30-day protest period** for proposed land use plan decisions (see 43 CFR 1610.5-2). Protests must be filed with the BLM Director. Appendix F outlines procedures.

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7. Before a land use plan decision is approved, the BLM must give public notice and provide a **30-day public comment period if there has been any significant change** to the proposed plan (see 43 CFR 1610.5-1(b)). Comments in response to this Notice of Significant Change will be addressed by the State Director.

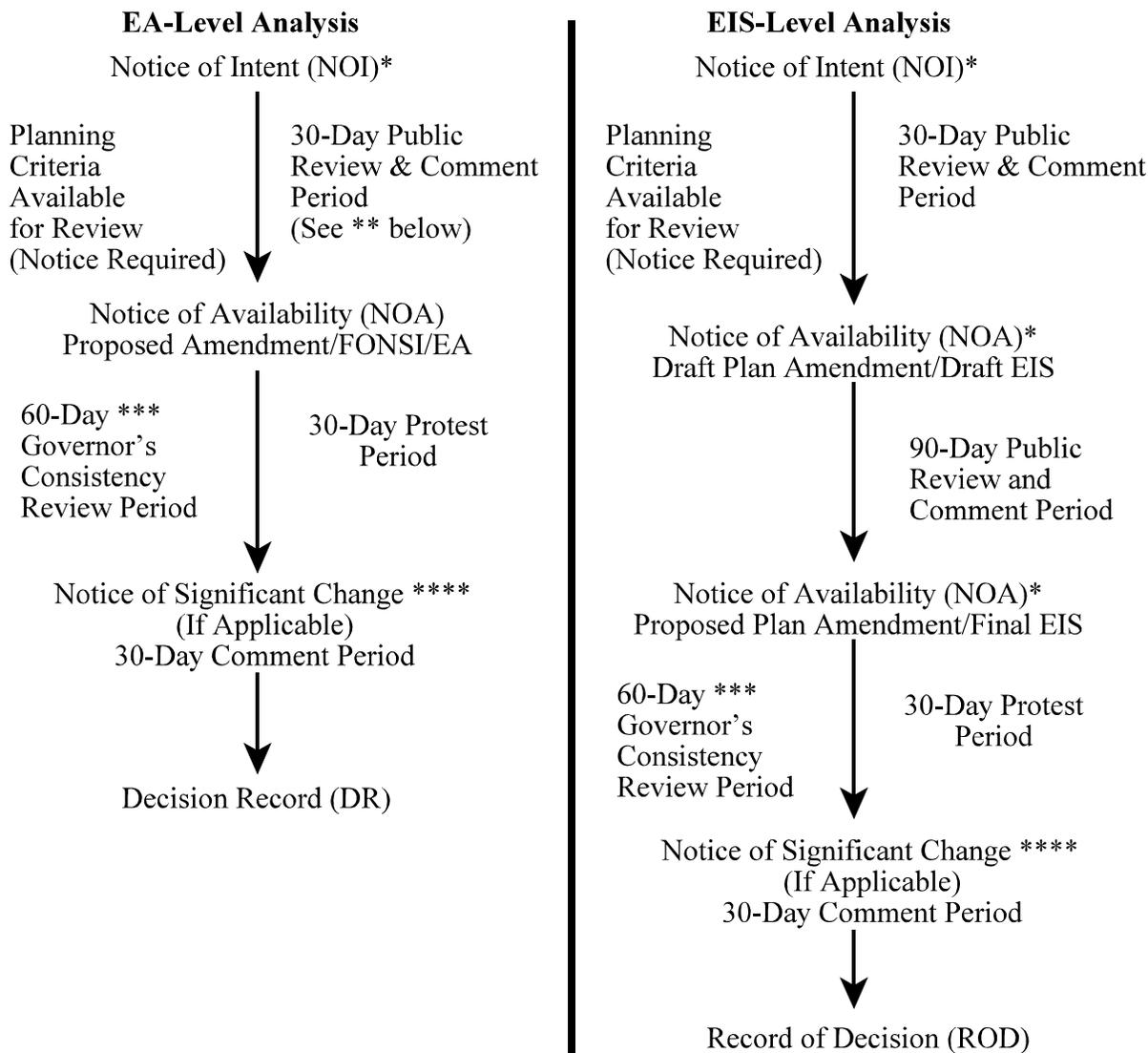
Figure 2 shows the minimum time frames for making land use plan decisions for both EA-level and EIS-level analyses. The time frames should be tailored to the particular planning effort and, with the exception of the 30-day protest period, may be extended to facilitate adequate public involvement.

C. Documentation Requirements.

The documentation of land use plan decisions and display of associated maps and information need to meet certain standards to provide BLM-wide consistency. A consistent approach will aid the public in accessing, understanding, and using land use plan information. Land use plans must meet approved standards and documentation requirements.

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**Figure 2
Timing Requirements for Land Use Plan Decision-Making**



* Notices that must be published in the *Federal Register*.

** When a public review and comment period is appropriate during an EA-level plan amendment process, release an unsigned draft Plan Amendment/FONSI/EA for a 30-day minimum public review and comment period at this point. When ACEC decisions are involved, a 60-day public review and comment period must be provided (43 CFR 1610.72(b)). The public review period must not be combined with the protest period.

*** A shorter Governor's consistency review period may be negotiated with the Governor on a State-by-State basis.

**** If the Governor(s) recommends changes not already raised, provide the public a 30-day opportunity to comment on the recommendations. This 30-day comment period may coincide with the 30-day comment period for the Notice of Significant Change. If the State Director does not accept the Governor's recommendation, the Governor has 30 days in which to submit a written appeal to the BLM Director.

H-1601-1 LAND USE PLANNING HANDBOOK**D. Government-to-government coordination with Indian tribes.**

The BLM will provide government officials of federally recognized tribes with opportunities to comment on and to participate in the development of land use plans. The BLM will consider comments, notify consulted tribes of final decisions, and inform them how their comments were addressed in those decisions. At a minimum, officials of federally recognized tribal governments must have the same level of involvement as State and county officials. It is recommended that coordination take place as early as possible and before official notifications are made. Land use plans and coordination activities must address the following:

1. **Consistency with tribal plans.** Section 202 (c) (9) of FLPMA requires BLM to coordinate plan preparation for public lands with plans for lands controlled by Indian tribes, so that BLM's plans are consistent with tribes' plans for managing tribal resources to the extent possible, consistent with Federal law. This coordination allows BLM and tribes to develop management prescriptions for a larger land base than either agency can address by itself.
2. **Protection of treaty rights.** Land use plans must address the protection of treaty rights assured to Indian tribes concerning tribal uses of public lands and resources. (Such treaty rights in the West are generally limited to Northwestern tribes who were subject to the Stevens treaties of the 1850s.)
3. **Observance of specific planning coordination authorities.** In addition to the FLPMA consistency provisions discussed above, land use plans must comply with the following statutes and executive orders:
 - a. Section 101 (d) (6) of the National Historic Preservation Act. This act requires BLM to consult with Indian tribes when historic properties of traditional religious or cultural importance to a tribe would be affected by BLM decision making.
 - b. The American Indian Religious Freedom Act. This act requires BLM plans to protect and preserve the freedom of American Indians and Native Alaskans in exercising their traditional religions, including access to sites and the freedom to worship through ceremonials and traditional rites.
 - c. Executive Order 13007 (Indian Sacred Sites). This act requires BLM plans to accommodate access to and use of sacred sites and to avoid adversely affecting the physical integrity of sacred sites to the extent practicable, permitted by law, and not inconsistent with essential agency functions. The BLM must ensure reasonable notice is provided to tribes, through government-to-government relations, of proposed actions or land management policies that may restrict future access to or ceremonial uses of, or adversely affect the physical integrity of, sacred sites, including proposed land disposals.

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- d. Executive Order 12898 (Environmental Justice). This requires BLM to take into account the relevant CEQ guidelines and Department of the Interior policies and goals.

In some cases, Native American or tribal interests are represented by certain advocacy groups that have a “quasi-governmental” authority or interest, but that are not federally recognized. There is no statutory, fiduciary trust, or government-to-government relationship with these groups that requires consultation. These groups are consulted on the same level as BLM would with any other nongovernmental organization or advocacy group using the principles of collaboration.

See BLM Manual 8120.5 and 8160, and BLM Handbook H-8160-1 for specific guidance on Native American consultation. Another source of guidance on consultation is found in the Departmental Manual 512 DM 2 (Departmental Responsibilities for Indian Trust Resources) and Secretarial Order 3215 (Principles for the Discharge of the Secretary’s Trust Responsibility).

E. Consulting with other Federal agencies and State and local governments.

Section 202 (c) (9) of FLPMA, as paraphrased, requires BLM to provide for public involvement of other Federal agencies and State and local government officials in developing land use decisions for public lands, including early public notice of proposed decisions that may have a significant effect on lands other than BLM-administered Federal lands. Collaboration must start as early in the land use planning process as is practicable and must continue throughout. This process of early coordination and involvement by other Federal agencies and State and local governments is often, but not always, formalized through various MOUs between the State Director and the state or regional heads of other Federal agencies, between the State Director and the Governor, or between BLM Field Managers and local municipalities, communities, or counties. The intent of MOUs is to establish points of contact and protocols for coordination between BLM and its partners. Regardless of whether an MOU is used as a tool for consistency, the principles of collaborative planning must be used in coordinating with these entities. The BLM can also seek involvement and coordination from associations of elected officials.

Section 202 (c) (9) of FLPMA also requires, to the extent practical, that BLM keep itself informed of other Federal agency and State and local land use plans, assure that consideration is given to those plans that are germane to the development of BLM land use plan decisions, and assist in resolving inconsistencies between Federal and non-Federal plans. The key is ongoing, long-term relationships where information is continually shared and updated.

Consultation requirements for specific resources and programs are outlined in Appendix C, under the “Notices, Consultations, and Hearings” subsections.

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Many municipalities, communities, and counties have established Community Advisory Boards, County Commissions, Planning Boards, Public Land Use Advisory Committees, or other similar planning and advisory groups. In some cases a State may have a Federal lands or policy liaison. These organizations and officials should be actively engaged from the beginning of the planning effort. The BLM may invite other Federal agencies and State and local governments to be involved as formal cooperating agencies. In planning efforts led by another agency or government entity, the BLM can be a cooperating agency.

Involving State and local government in developing land use decisions may require the BLM to be “at the table” with the various land use boards of the State or local government. Coordination with and involvement of other Federal agencies and State and local government goes far beyond merely providing briefings for other Federal, State, or county officials on the status of any planning effort. BLM’s plans shall be consistent with other Federal agency, State, and local plans to the maximum extent consistent with Federal law and FLPMA provisions. All BLM land use plans or plan amendments and revisions must undergo a 60-day Governor’s consistency review prior to final approval. BLM’s procedures for the Governor’s consistency review are found in the planning regulations in 43 CFR 1610.3-2 (e).

When other Federal agencies and State and local governments initiate planning efforts, the BLM should consider initiating its own collaborative planning efforts. This will provide BLM with the opportunity to integrate its planning decisions more closely with those of other governmental entities.

H-1601-1 LAND USE PLANNING HANDBOOK**IV. Implementation****A. Implementing land use plans.**

When an approved land use plan or land use plan amendment decision document (i.e., Record of Decision (ROD) or Decision Record (DR)) is signed, many of the land use plan decisions in the plan are effective immediately and require no additional planning or NEPA analysis. Examples of land use plan decisions that become effective immediately include:

1. Desired outcomes or resource objectives;
2. ACEC designations;
3. Visual resource management class designations;
4. Wild horse and burro herd management area designations;
5. OHV designations; and
6. Areas open or closed to oil and gas leasing.

There are, however, some program-specific requirements that must be taken in order to make some decisions effective. An example of a land use plan decision that requires an additional action for implementation would be a recommendation to withdraw lands from entry under the mining laws. Formal action requiring Secretarial level review and decision making would follow if the BLM planning process results in a withdrawal recommendation and the applicable regulations in 43 CFR 2300 are followed.

Upon approval of the land use plan, subsequent implementation decisions are often put into effect by developing implementation plans. These plans have traditionally been referred to as “activity plans” (habitat management plans, allotment management plans, recreation management plans, etc.) and have been focused on single resource programs. In this Handbook, these types of plans are referred to as “implementation plans” to reflect their role in implementing land use plan decisions. Implementation plans are increasingly interdisciplinary and are focused on multiple resource program areas, rather than a single program, to reflect the shift to a more watershed-based or landscape-based approach to management. These types of plans are sometimes referred to as “integrated or interdisciplinary plans,” “coordinated resource management plans,” “landscape management plans,” or “ecosystem management plans.”

H-1601-1 LAND USE PLANNING HANDBOOK**B. Defining implementation decisions.**

Implementation decisions are actions taken to implement land use plan decisions. They are generally appealable to IBLA under 43 CFR 4. Implementation decisions normally require additional planning and NEPA analysis and must conform to land use plan decisions. Examples of implementation decisions include establishment of:

1. Allotment-specific permitted-use levels;
2. Livestock grazing systems;
3. Vegetation treatment practices, including weed control;
4. Hazardous fuels reduction and restoration projects;
5. Forest stand treatments;
6. Right-of-way grants;
7. Recreation facilities; and
8. Appropriate management levels (AMLs) for wild horses and burros

C. Making implementation decisions.

Implementation decisions are made with the appropriate level of NEPA analysis along with any procedural and regulatory requirements for individual programs. See 40 CFR 1500-1508, the BLM NEPA Handbook (H-1790-1), and 516 DM 1-7 for detailed descriptions of NEPA procedures. An EA, EIS, or EIS Supplement must be prepared for subsequent implementation planning unless the decisions and actions contained in the implementation plan are:

1. Identified as exceptions to the BLM NEPA requirements (e.g., actions specifically exempted from NEPA by the Congress).
2. Categorically excluded (refer to Departmental Manual 516 DM 2, Appendix 1, and 516 DM 6, Appendix 5.4, for a current listing (5/19/92) of categorical exclusions).
3. Fully covered by a previously prepared EA or EIS that does not need to be updated as documented by a Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA).

H-1601-1 LAND USE PLANNING HANDBOOK**D. Making land use plan and implementation decisions in the same planning effort.**

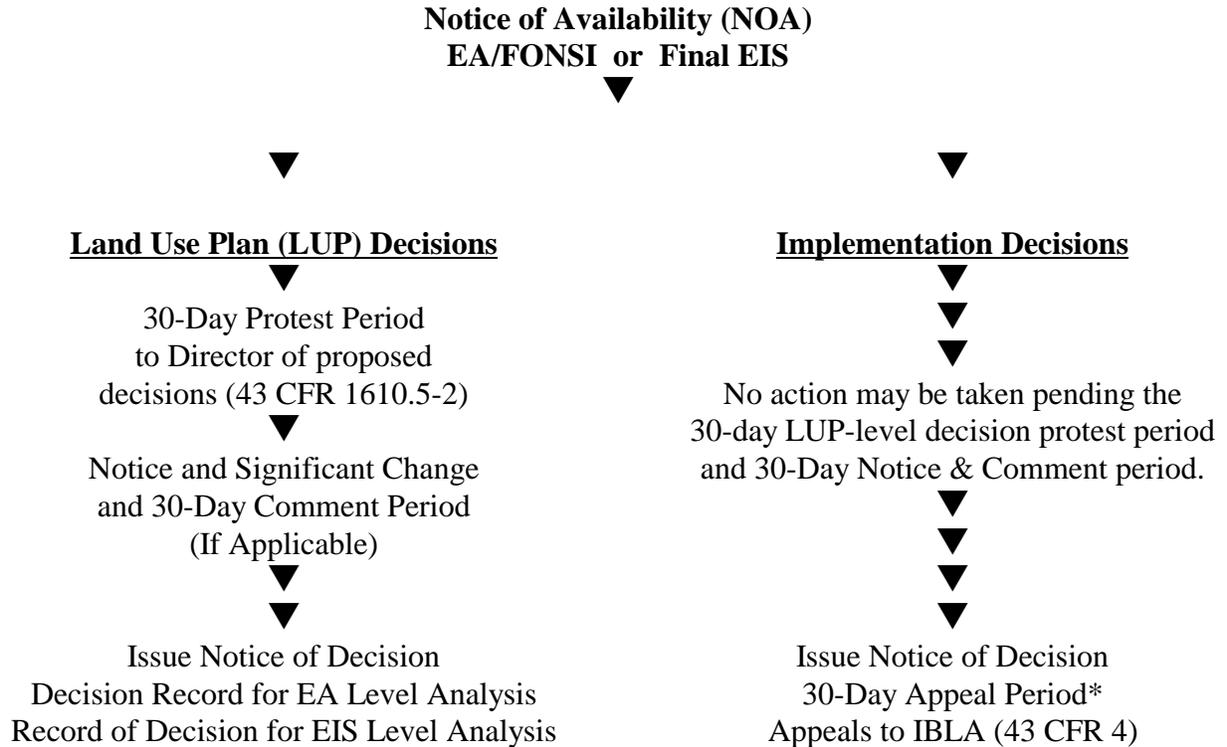
Considering land use and implementation decisions through a single, integrated effort can be especially useful when collaborating with Indian tribes, other Federal agencies, or State and local governments on plans of mutual interest. If, for example, the BLM is participating with a community on a plan addressing community expansion and the BLM must complete a plan amendment to identify lands that are available for disposal, the amendment and any implementation actions may be considered together. However, the land use plan decisions must follow the planning requirements of FLPMA, 43 CFR 1600, the NEPA procedures detailed in CEQ regulations in 40 CFR 1500, and this Handbook. At the decision stage, the land use plan decisions must be separated from the implementation decisions. In this case, proposed land use plan decisions would be protested under 43 CFR 1610.5-2, while any implementation decisions would be appealed to the IBLA under 43 CFR 4.411. Consult program specific guidance to determine which administrative appeal or protest procedures apply. Protests and appeals are discussed in Appendix F.

The authority to make the decisions also differs. Land use plan decisions must be made by the BLM State Director, whereas most implementation decisions are made by BLM Field Managers. The BLM State Director may, however, make the decision for both levels.

The sequence shown in Figure 3 outlines the time frames for issuing decisions when the two decision types are combined into one planning effort. This sequence begins with identifying proposed decisions through a notice of availability.

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**Figure 3
Issuing Land Use Plan and Implementation Decisions
When Both Decision Types are Included in a Single Planning Effort**



* 43 CFR 4 establishes general appeal procedures; however, some program-specific regulations contain appeal provisions that supersede these.

H-1601-1 LAND USE PLANNING HANDBOOK**E. Appealing implementation decisions.**

Generally, all final implementation decisions are appealable to the IBLA under 43 CFR 4 and are not subject to protest provisions in 43 CFR 1610.5-2. However, regulations for some resource programs, e.g., grazing, allow a protest period or different appeal procedures before a final implementation decision is issued. Appendix F provides additional details on appeal procedures for implementation decisions.

F. Developing strategies to facilitate implementation of land use plans.

A documented, well-organized thought process is essential to successful plan implementation. Implementation strategies may be developed in conjunction with developing land use plan decisions, but strategies are not land use plan decisions and are not subject to protest or appeal.

There are no procedural or approval requirements for an implementation strategy. However, a well thought-out implementation strategy should prioritize each decision for funding and implementation. The strategy should also be interdisciplinary (not program by program). Developing an implementation strategy creates an important opportunity for continued collaboration with the public, tribes, State and local governments, and other Federal agencies.

Factors that influence decision priorities are:

1. Statutory mandates, including, but not limited to, compliance with the Clean Air and Clean Water Acts, the Endangered Species Act, the National Historic Preservation Act, the Taylor Grazing Act, and FLPMA.
2. Goals listed in BLM's Strategic Plan and Annual Performance Plan.
3. Present risks to resources, with resources at high risk ranking above resources without known or substantial risks.
4. Likelihood of success, with actions using proven techniques possibly ranking higher than actions using experimental techniques.
5. Cost-effectiveness of actions. There is no requirement to develop a cost/benefit analysis, but actions that have a high likelihood of improving resource conditions for relatively small expenditures of time and money should receive relatively higher priority.

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6. Willingness and availability of cooperators to meet similar resource objectives for adjacent non-Federal lands and resources. This would include opportunities to cooperate on a watershed basis and to leverage limited resources.
7. Budgetary and staff resources required to implement the decisions.

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The regulations in 43 CFR 1610.4-9 require that land use plans establish intervals and standards for monitoring and evaluations, based on the sensitivity of the resource decisions involved.

A. Monitoring.

Land use plan monitoring is the process of tracking the implementation of land use planning decisions. In Appendix C, each resource program identifies desired land use plan decisions. BLM Field Offices must determine what actions are needed to implement those decisions. Sometimes actions occur just once, e.g., the development of an implementation plan; actions occur on a fairly regular basis, e.g., steps taken to repair a damaged watershed. Monitoring is the process of following up on these actions and documenting BLM's progress toward full implementation of the land use plan decision. Field offices are encouraged to involve tribes, State and local governments, and the public if they express an interest in participating in this process.

A monitoring schedule must be developed in BLM's land use plans to periodically (annually is recommended) revisit plan decisions and track progress toward accomplishment. Land use plan monitoring should be documented with a plan implementation tracking log or report. This report must be available for review by the public. In the log or report, field staff can describe actions proposed to implement plan decisions; this information can also be used to develop annual budget documents. In subsequent years, staff can document whether these actions were actually completed and what further actions are needed to continue implementing the plan decisions. Monitoring helps to create a "living plan" and accountability for full plan implementation.

The land use plan may also identify intervals and standards for "resource" monitoring. Where resource monitoring intervals are established, plan monitoring must address whether these resource monitoring activities are being carried out.

B. Evaluation.

Evaluation is the process of reviewing the land use plan and the periodic plan monitoring reports to determine whether the land use plan decisions and NEPA analysis are still valid and whether the plan is being implemented. Land use plans are evaluated to determine if: (1) decisions are current, (2) any decisions need to be revised, (3) any decisions need to be dropped from further consideration, and (4) any areas require new decisions.

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LUP evaluations determine if decisions are being implemented, whether mitigation measures are satisfactory, whether there are significant changes in the related plans of other entities, whether there is new data of significance to the plan, and if decisions should be changed through amendment or revision. Plan evaluations should also be completed prior to any new planning starts that will replace an existing plan, for plan revisions, and for major plan amendments. However, if existing monitoring data, along with previously completed evaluations, substantiates the need for a plan revision or amendment, proceed with the revision or amendment.

An evaluation schedule shall be developed in the land use plan to periodically (at least every 5 years is recommended) evaluate the plan. Special or unscheduled evaluations may also be required to review unexpected actions or significant changes in the related plans of Indian tribes, other Federal agencies, and State and local governments, or to evaluate legislation or litigation that has the potential to trigger an RMP amendment or revision.

Evaluations will be used by the BLM to determine if LUP decisions and NEPA analyses are appropriate. Evaluations may identify resource needs and means for correcting deficiencies and addressing issues through plan maintenance, amendments, or new starts. They should also identify where new and emerging resource issues and other values have surfaced. Evaluations may also identify new and innovative practices that improve effectiveness and efficiency so that other offices may benefit.

1. **Process.** The following section outlines the recommended process for completing land use plan evaluations.

- a. State offices, with input from the field, identify reasons for evaluating the RMP.
- b. Where appropriate, State and Field Offices identify LUPs that can be grouped/batched in a geographic region or planning area to look at issues that cut across boundaries (State and Field Offices). Each plan should have its own evaluation documentation as well as a combined (grouped/batched) evaluation for all RMPs identified in the geographical region or planning area.
- c. State and Field Offices identify what the evaluation is to measure. In some cases, the RMP/ROD may have identified both monitoring and evaluation measures, units, and programs, and may even have specified the monitoring/evaluation questions to be answered.
- d. The State Office may develop and send questionnaires to Field Offices (specific to the State and Field Offices) to focus the evaluation, along with instructions for completing it. Evaluations must be tailored to individual land use plans; however, a comprehensive evaluation must address the following questions:

- (1) Are actions outlined in the plan being implemented?

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- (2) Does the plan establish desired outcomes (i.e., goals, standards, and objectives)?
 - (3) Are the allocations, constraints, or mitigation measures effective in achieving the desired outcomes? This determination is often made based on information obtained from resource assessments.
 - (4) Do decisions continue to be correct or proper over time?
 - (5) Have there been significant changes in the related plans of Indian tribes, State or local governments, or other Federal agencies?
 - (6) Are there new data or analyses that significantly affect the planning decisions or the validity of the NEPA analysis?
 - (7) Are there unmet needs or new opportunities that can best be met through a plan amendment or revision, or will current management practices be sufficient? For example, are there outstanding requests for ACEC designations to protect resource values? Note: ACEC's must be designated through the land use planning process.
 - (8) Are new inventories warranted pursuant to BLM's duty to maintain inventories on a continuous basis (FLPMA, Section 201)?
 - (9) Are there new legal or policy mandates as a result of new statutes, proclamations, executive orders, or court orders not addressed in the plan?
- e. The State and Field Office establish/identify an interdisciplinary team that will complete the evaluation(s). If available, the team should include specialists from State and Field Offices as well as adjoining State(s), and representatives from WO-210, WO-170 (if NLCS units are involved), and tribes, other Federal agencies, State and local governments, and the public. The interdisciplinary team should represent the major resources/programs present in the LUP evaluation area and should be encouraged to incorporate other (technical procedures) evaluations or analyses that address the same resources and provide useful information.

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- f. The evaluation team should review both published and unpublished documents that implement or support the RMP decisions and NEPA analysis [e.g., Management Situation Analysis, areawide mineral reports, socioeconomic studies/analyses, reasonably foreseeable development (RFD) scenarios, ACEC reports, documents incorporated by reference/adoption, and other studies (wild and scenic river, wilderness, T&E, water, etc.)]. The evaluation reports should also cite examples of implementation plans (at the activity level) that incorporate new information, address new issues, and provide either more detailed decisions or additional protective management direction. These may include formal decision-making documents as well as watershed-level analyses and other landscape units or plans.
- g. The evaluation team should review NEPA compliance and procedural conformance records within the LUP evaluation [e.g., Determination of NEPA Adequacy, which typically relies on the RMP and associated NEPA documents (categorical exclusions)].
- h. The official who initiates the evaluation (WO, SD, or FM) should be the approving official. State Directors should concur with evaluations approved at the Field Office level.

2. **Evaluation Report.** An evaluation report documenting the findings of the evaluation must be prepared. Following State Director approval or concurrence, the report will be made available to the public. The following report format is recommended. If appropriate, use charts, diagrams, and matrixes to display or summarize information.

- a. Introduction
- b. Purpose of evaluation
- c. Approach
- d. Results and findings
 - (1) Document conclusions regarding achievement of desired outcomes as well as any individual program or resource management issues associated with plan implementation.
 - (2) Identify decisions to be carried forward (i.e., no change needed), decisions needing to be modified, decisions needing to be dropped, and new decisions needed.
- e. Recommendations, including any resource- or program-specific actions needed and other follow-up opportunities for BLM Field and State Offices or interagency consideration.
- f. Approval and concurrence.

H-1601-1 LAND USE PLANNING HANDBOOK**VI. Determining if New Decisions are Required****A. Specific regulatory requirements for considering new information or circumstances.**

New information, updated analyses, or new resource use or protection proposals may require amending or revising land use plans and updating implementation decisions. The primary requirements for considering new information are as follows:

1. The BLM planning regulations require evaluating whether there is new data of significance to the land use plan (see 43 CFR 1610.4-9) and whether plan amendments (see 43 CFR 1610.5-5) or revisions (see 43 CFR 1610.5-6) are required.
2. The CEQ regulations (40 CFR 1502.9 (c)) require BLM to prepare supplements to draft or final EISs if the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.
3. Joint agency ESA regulations (see 50 CFR 402.16 (b)) require consultation to be reinitiated if new information reveals that decisions may affect listed species or critical habitat in a way or to an extent not previously considered, including exceeding the incidental take for a particular action.

B. Considering new proposals, circumstances, or information.

New data or information can include, but is not limited to:

1. Changes in status, new listings or new critical habitat designations for endangered, threatened, and other special status or sensitive species (see Appendix C, Section I.G).
2. Changes in intensity of use or impact levels for a particular resource (e.g., increased recreation use as a result of urban expansion).
3. Changes in social and economic conditions resulting from urban expansion or broad conservation efforts (e.g., open space management).
4. Public comment or staff assessments indicating that new information or changed circumstances warrant a reconsideration of the appropriate mix of uses on particular tracts of public lands.
5. A biological opinion issued by the Fish and Wildlife Service or the National Marine Fisheries Service on actions in the planning area.
6. Information from tribes, elected county officials, State agencies, or other Federal

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agencies on significant changes in their related plans or resource conditions that are critical to BLM land use plans and/or subordinate implementation plans.

7. New State listings of water-quality-limited streams (Clean Water Act, Section 303 (d)), Total Maximum Daily Load (TMDL) developments, or nonattainment area designations (Clean Air Act) that may lead to the identification of new management practices that would require additional NEPA compliance and could require new land use plan decisions.
8. New geochemical, geologic, or geophysical data.
9. New cultural resource data.
10. Environmental disturbances that significantly change natural conditions (e.g., wildfires, floods, or weed infestations).
11. Monitoring data and resource assessments associated with implementing resource management actions designed to achieve resource objectives and land health standards.
12. Land use plan evaluations that weigh and interpret information gathered through resource monitoring.
13. Determinations as to whether mitigation measures outlined in the plan are effective.
14. New national policy or a change in legal duties resulting from laws, regulations, executive orders, or BLM directives. An example would be designation of a river segment under the Wild and Scenic Rivers Act that mandates a protection and enhancement standard that, in turn, may affect resource management objectives, conditions, or uses (e.g., livestock grazing or proposed projects) outlined in the land use plan.
15. Information from the public or others regarding conditions or uses of resources on public lands.

C. Deciding whether changes in decisions or the supporting NEPA analysis are warranted.

The determination whether to amend or revise an RMP based on new proposals, circumstances, or information depends on 1) the nature of new proposals, 2) the significance of the new information or circumstances, 3) specific wording of the existing land use plan decisions, including any provisions for flexibility, and 4) the level and detail of the NEPA analysis. A “yes” answer to any of the following five questions suggests the need to revisit existing decisions and/or the NEPA analysis:

1. Does the new information or circumstance provide for new interpretations not known or considered at the time existing decisions were made that could measurably

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affect ongoing actions?

For example: Current land use plan decisions may require that all wildland fires be suppressed to limit the fire to the smallest acreage possible and make no provision for prescribed fires. This conflicts with new Secretarial policy guidance that wildland fire, as a critical natural process, must be reintroduced into the ecosystem.

2. Are the decisions in the current land use plan no longer valid, based on new information or changed circumstances? If decisions are not valid, the decisions need to be vacated, replaced, or changed through plan amendment or revision. Examples of situations that may require new or changed land use plan decisions include, but are not limited to, the following:
 - a. Monitoring information may show the need to discontinue managing a herd in an existing herd management area (HMA) because it is not practical to preserve or maintain a thriving ecological balance with the multiple use relationships in that area. Conversely, new herd management areas could be established if an analysis of monitoring data show that a viable herd could be established and meet the requirements for maintaining a thriving ecological balance.
 - b. The voluntary relinquishment of the grazing preference and permit on an allotment or the inability to achieve Land Health Standards under any level or management of livestock use may affect the decision identifying that allotment as being available for livestock use.
 - c. Consultations resulting in new requirements or actions that are not in conformance with the existing land use plan to protect threatened or endangered species or critical habitats may require new land use plan decisions, including new or supplemental NEPA analysis.
 - d. New requirements or actions that affect land use allocations or areawide constraints or restrictions established at the land use plan level would require amendment of land use plan decisions.
 - e. Current scientific knowledge, as reflected in scientific literature could highlight a need to change plan decisions.
 - f. Public comment or a staff assessment supporting a different mix of uses on the lands that will better promote the long-term health and sustainability of the lands and their resources could require an amendment.

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3. Are implementation decisions no longer valid, based on new information or changed circumstances? Site-specific resource-use levels or management actions normally do not require a land use plan amendment if the land use plan decisions provide broad direction for these uses and actions; however, they may require appropriate NEPA analysis. For example:
 - a. The level of livestock use permitted in an allotment may normally be modified based on allotment-specific resource assessment, condition, and trend-monitoring data.
 - b. Resource use levels or management practices, such as permitted livestock use or pre-commercial forest thinning, may normally be modified or eliminated on a site-specific or project-level basis to satisfy the needs of threatened or endangered species or their critical habitat, as detailed in biological opinions or approved recovery plans. Elimination of livestock grazing on an entire allotment is a management decision that should be thoroughly analyzed through the plan amendment process and not through a maintenance action.
4. Are effects of ongoing actions, in light of new information or circumstances, substantially different from those projected in existing NEPA analyses? If “yes,” conduct a new or supplemental NEPA analysis to the extent necessary to address the differences and document the findings.
 - a. Consider direct and indirect effects and their significance.
 - b. Consider cumulative effects and whether the new information or circumstances identify or produce incremental impacts added to those resulting from other past, present, and reasonably foreseeable future actions. Does the additional effect, in the context of the ongoing action, require further mitigation or new decisions?
5. In light of new information or circumstances, are there now inconsistencies between the ongoing action and the resource-related plans of Indian tribes, State and local governments, or other Federal agencies that render earlier consistency findings invalid? Changes in land use plan decisions through amendment or revision must be accompanied by new consistency determinations.

Further NEPA analysis may be conducted to help determine whether decisions are still valid. It is possible to conduct additional NEPA analysis and reach a conclusion that no change is needed in decisions, but the decisions cannot be changed without additional NEPA analysis.

H-1601-1 LAND USE PLANNING HANDBOOK**D. Documenting the determination to modify, or not to modify, decisions or NEPA analysis.**

It is important to document decisions to modify or not modify the land use plan or NEPA analysis when these decisions are reached as part of the formal land use plan evaluation process (Section V). In reviewing new information or circumstances that are controversial or of interest to the public, it is also important to provide all interested parties with written documentation of BLM's determination.

In response to an outside application or internal proposal, a decision not to change land use decisions will be documented in the case file and/or in the response to the applicant. If the decisions not to amend the plan was made through a NEPA analysis, then that decision can be documented in the Plan Conformance section of the NEPA document. If the decision is to change decisions or revisit the NEPA analysis, the rationale to modify, revise, or further evaluate decisions or NEPA analysis may be documented in a Notice of Intent prepared during scoping activities or in the planning or NEPA document.

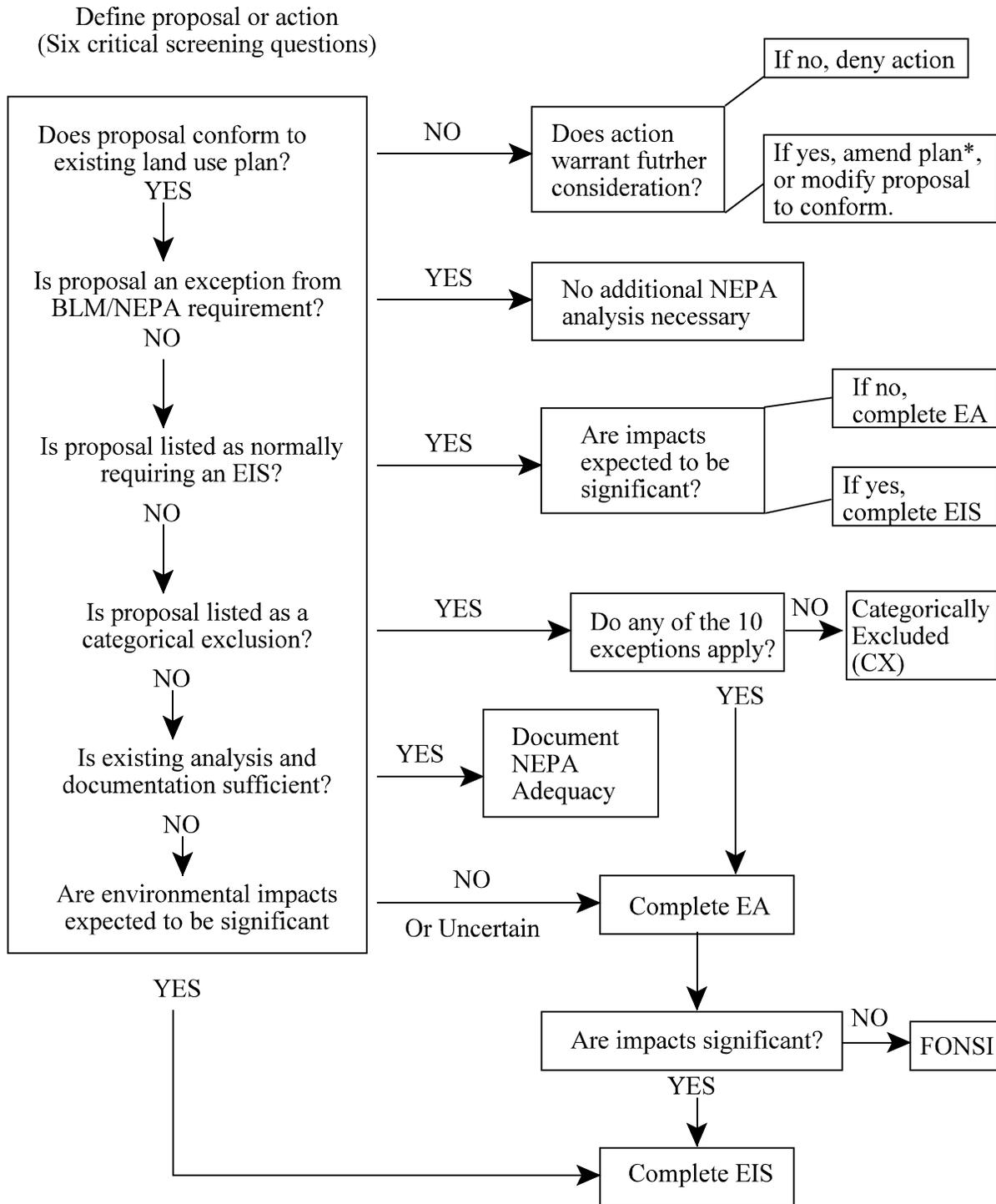
E. Evaluating new proposals.

New proposals can stem from specific BLM implementation actions such as a proposal to prepare a livestock grazing allotment management plan, or from non-BLM initiated proposals such as a right-of-way request for a new power line.

A new proposal should provide enough detail to allow BLM to determine whether it conforms with existing land use plan decisions and to facilitate screening for adequate NEPA compliance (See Figure 4). The NEPA Handbook (H-1790-1) describes the screening process in more detail.

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Figure 4 - Evaluating New Proposals-An Overview
 (See BLM NEPA Handbook (H-1790-1) for additional detail.)



* This may also be accomplished through a new plan, plan revision, or planning analysis.

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The term “plan conformance,” as defined in the BLM planning regulations, means either that the plan specifically identifies a resource management action or (if not) the action is consistent with the terms, conditions, and decisions of the approved plan (43 CFR 1601.0-5(b)). Key considerations in making and documenting conformance determinations include the following:

1. Do land use plan decisions allow, conditionally allow, or preclude the action?
2. Do land use plan decisions call for a new decision to accommodate the action?
3. If the plan does not specifically mention the action, how clearly consistent is the action with plan objectives, terms, conditions, and decisions?

G. Determining when to update land use plan decisions through maintenance actions.

The BLM regulation in 43 CFR 1610.5-4 provides that land use plan decisions and supporting components can be maintained to reflect minor changes in data. Maintenance is limited to further refining or documenting a previously approved decision incorporated in the plan. Maintenance must not expand the scope of resource uses or restrictions or change the terms, conditions, and decisions of the approved plan. Plan maintenance is not considered a plan amendment and does not require formal public involvement, interagency coordination, or the NEPA analysis required for making new land use plan decisions. Maintenance actions must be documented in the plan or supporting components (i.e., recorded so that the change is evident). Examples of maintenance actions include:

1. Correcting minor data, typographical, mapping, or tabular data errors in the planning records after a plan or plan amendment has been completed.
2. Refining the boundary of an archaeological district based on new inventory data.
3. Refining the known habitat of a special status species addressed in the plan based on new information.

Plan maintenance must occur continuously so that the plan and its supporting records reflect the current status of decision implementation and knowledge of resource conditions.

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H-1601-1 LAND USE PLANNING HANDBOOK**VII. Amending and Revising Decisions****A. Changing land use plan decisions.**

Land use plan decisions are changed through either a plan amendment or a plan revision. The process for conducting plan amendments is basically the same as the land use planning process used in creating RMPs. The primary difference is that circumstances may allow for completing a plan amendment through the EA process, rather than through the EIS or supplemental EIS process. The process for preparing plan revisions is the same as for preparing new RMPs, and an EIS is always required. Refer to Appendix E for an overview of the EIS-level and EA-level planning processes.

B. Determining when it is necessary to amend plans and how it is accomplished.

Plan amendments (see 43 CFR 1610.5-5) change one or more of the terms, conditions, or decisions of an approved land use plan. These decisions may include those relating to desired outcomes; measures to achieve desired outcomes, including resource restrictions; or land tenure decisions. Plan amendments are most often prompted by the need to:

1. Consider a proposal or action that does not conform to the plan.
2. Implement new or revised policy that changes land use plan decisions such as an approved Conservation Agreement between BLM and the U.S. Fish and Wildlife Service.
3. Respond to new, intensified, or changed uses on public land.
4. Consider new information from resource assessments, monitoring, or scientific studies that change land use plan decisions.

The BLM regulations in 43 CFR 1600 and the NEPA process detailed in the CEQ regulations in 40 CFR 1500 guide preparation of plan amendments. The process is tailored to the anticipated level of public controversy and potential for significant impacts. In simple, noncontroversial cases, it is possible to complete the amendment process in less than 6 months. See Section III for procedures for preparing land use plan decisions.

Plans needing amendment may be grouped geographically or by type of decision in the same amendment process. Similarly, one amendment process may amend the same or related decisions in more than one land use plan. The amendment process may also be used to update plans adopted from another agency.

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In reaching a decision to amend a land use plan, BLM must not only consider the resource, but also other workload priorities, budgetary constraints, and staff capabilities. In situations where available budgets allow and staff capabilities are restricted, consider third-party contracting for all or portions of the plan amendment's NEPA analysis, including baseline data acquisition. If the manager decides not to amend, then nonconforming actions cannot be taken.

C. Determining when it is necessary to revise an RMP or replace an MFP.

1. RMP revisions (see 43 CFR 1610.5-6) involve preparation of a new RMP to replace an existing one. RMP revisions are necessary if monitoring and evaluation findings, new data, new or revised policy, or changes in circumstances indicate that decisions for an entire plan or a major portion of the plan no longer serve as a useful guide for resource management. Plan revisions are prepared using the same procedures and documentation as for new plans.

2. As funding and capability permit, all MFPs will be replaced by RMPs. The priority for replacing MFPs will be guided by the extent MFPs fail to meet the statutory requirements for land use planning in FLPMA (see Section II.A.), and the need to modify decisions to meet resource management needs.

D. Changing implementation decisions.

Implementation decisions are changed through an interdisciplinary NEPA process in conjunction with BLM resource program-specific guidance.

H-1601-1 LAND USE PLANNING HANDBOOK**E. Status of existing decisions during the amendment or revision process.**

Existing decisions remain in effect during these processes unless it is determined that this would violate Federal law or regulation. The management decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use. Land use plan decisions may be changed only through the amendment or revision process.

During the amendment or revision process, the BLM should review all proposed implementation actions through the NEPA process to determine whether approval of a proposed action would harm resource values so as to limit the choice of reasonable alternative actions relative to the land use plan decisions being reexamined. Even though the current land use plan may allow an action, the BLM manager has the discretion to modify proposed implementation-level actions and require appropriate conditions of approval, stipulations, relocations, or redesigns to reduce the effect of the action on the values being considered through the amendment or revision process. The appropriate modification to the proposed action is subject to valid existing rights and program specific regulations. If the BLM determines that a proposed action would harm values so as to limit the choice of reasonable alternatives being considered in the planning process, the BLM must consider among the alternatives, the no action alternative. Subject to valid existing rights, proposed actions that cannot be modified to preserve opportunities for selection of any of the reasonable alternatives should be postponed or denied (see 40 CFR 1506.1).

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H-1601-1 LAND USE PLANNING HANDBOOK**Glossary of Terms and Acronyms**

Following are definitions for terms and descriptions for acronyms used in this Handbook. Also see definitions for terms used in Section 103 of FLPMA and the planning regulations at 43 CFR 1601.0-5. This glossary does not supersede these definitions or those in other laws or regulations.

Terms

-A-

Activity Plan: see “Implementation Plan.”

Alternative Dispute Resolution: any process used to prevent, manage, or resolve conflicts using procedures other than traditional courtroom litigation or formal agency adjudication.

Amendment: the process for considering or making changes in the terms, conditions, and decisions of approved RMPs or MFPs using the prescribed provisions for resource management planning appropriate to the proposed action or circumstances. Usually only one or two issues are considered that involve only a portion of the planning area.

Assessment: the act of evaluating and interpreting data and information for a defined purpose.

-B-

Best Management Practices (BMP): a suite of techniques that guide, or may be applied to, management actions to aid in achieving desired outcomes. Best management practices are often developed in conjunction with land use plans, but they are not considered a land use plan decision unless the land use plan specifies that they are mandatory. They may be updated or modified without a plan amendment if they are not mandatory.

-C-

Categorical Exclusion (CX): a category of actions (identified in agency guidance) that do not individually or cumulatively have a significant effect on the human environment, and for which neither an environmental assessment nor an EIS is required (40 CFR 1508.4).

Closed: generally denotes that an area is not available for a particular use or uses; refer to specific definitions found in law, regulations, or policy guidance for application to individual programs. For example, 43 CFR 8340.0-5 sets forth the specific meaning of “closed” as it relates to OHV use, and 43 CFR 8364 defines “closed” as it relates to closure and restriction orders.

Collaboration : a cooperative process in which interested parties, often with widely varied interests, work together to seek solutions with broad support for managing public and other lands. This may or may not involve an agency as a cooperating agency.

Collaborative Partnerships and Collaborative Stewardship: refers to people working together,

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sharing knowledge and resources, to achieve desired outcomes for public lands and communities within statutory and regulatory frameworks.

Conformance: means that a proposed action shall be specifically provided for in the land use plan or, if not specifically mentioned, shall be clearly consistent with the goals, objectives, or standards of the approved land use plan.

Conservation Agreement: a formal signed agreement between the U.S. Fish and Wildlife Service or National Marine Fisheries Service and other parties that implements specific actions, activities, or programs designed to eliminate or reduce threats or otherwise improve the status of a species. CA's can be developed at a State, regional, or national level and generally include multiple agencies at both the State and Federal level, as well as tribes. Depending on the types of commitments the BLM makes in a CA and the level of signatory authority, plan revisions or amendments may be required prior to signing the CA, or subsequently in order to implement the CA.

Conservation Strategy: a strategy outlining current activities or threats that are contributing to the decline of a species, along with the actions or strategies needed to reverse or eliminate such a decline or threats. Conservation strategies are generally developed for species of plants and animals that are designated as BLM Sensitive species or that have been determined by the Fish and Wildlife Service or National Marine Fisheries Service to be Federal candidates under the Endangered Species Act.

Consistency: means that the proposed land use plan does not conflict with officially approved plans, programs, and policies of tribes, other Federal agencies, and State and local governments to the extent practical within Federal law, regulation, and policy.

Cooperating Agency: assists the lead Federal agency in developing an EA or EIS. The Council on Environmental Quality regulations implementing NEPA define a cooperating agency as any agency that has jurisdiction by law or special expertise for proposals covered by NEPA (40 CFR 1501.6). Any tribe or Federal, State, or local government jurisdiction with such qualifications may become a cooperating agency by agreement with the lead agency.

-D-

Director (BLM Director): the national Director of the BLM.

Documentation of Land Use Plan Conformance and National Environmental Policy Act (NEPA)

Adequacy (DNA): a worksheet for determining and documenting that a new, site-specific proposed action both conforms to the existing land use plan(s) and is adequately analyzed in existing NEPA documents. The signed conclusion in the worksheet is an interim step in BLM's internal analysis process and is not an appealable decision.

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-E-

Evaluation (Plan Evaluation): the process of reviewing the land use plan and the periodic plan monitoring reports to determine whether the land use plan decisions and NEPA analysis are still valid and whether the plan is being implemented.

-G-

Geographic Information System: a computer system capable of storing, analyzing, and displaying data and describing places on the earth's surface.

Goal: a broad statement of a desired outcome. Goals are usually not quantifiable and may not have established time frames for achievement.

Guidelines: actions or management practices that may be used to achieve desired outcomes, sometimes expressed as best management practices. Guidelines may be identified during the land use planning process, but they are not considered a land use plan decision unless the plan specifies that they are mandatory. Guidelines for grazing administration must conform to 43 CFR 4180.2.

-I-

Implementation Decisions: decisions that take action to implement land use plan decisions. They are generally appealable to IBLA under 43 CFR 4.40.

Implementation Plan: a site-specific plan written to implement decisions made in a land use plan. An implementation plan usually selects and applies best management practices to meet land use plan objectives. Implementation plans are synonymous with "activity" plans. Examples of implementation plans include interdisciplinary management plans, habitat management plans, and allotment management plans.

Indian tribe (or tribe): any Indian group in the conterminous United States that the Secretary of the Interior recognizes as possessing tribal status (listed periodically in the *Federal Register*).

-L-

Land Use Allocation: the identification in a land use plan of the activities and foreseeable development that are allowed, restricted, or excluded for all or part of the planning area, based on desired future conditions.

Land Use Plan: a set of decisions that establish management direction for land within an administrative area, as prescribed under the planning provisions of FLPMA; an assimilation of land-use-plan-level decisions developed through the planning process outlined in 43 CFR 1600, regardless of the scale at which the decisions were developed.

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Land Use Plan Decision: establishes desired outcomes and actions needed to achieve them.

Decisions are reached using the planning process in 43 CFR 1600. When they are presented to the public as proposed decisions, they can be protested to the BLM Director. They are not appealable to IBLA.

Land Use Planning Base: the entire body of land use plan decisions resulting from RMPs, MFPs, planning analyses, the adoption of other agency plans, or any other type of plan where land-use-plan-level decisions are reached.

-M-

Management Decision: a decision made by the BLM to manage public lands. Management decisions include both land use plan decisions and implementation decisions.

Monitoring (Plan Monitoring): the process of tracking the implementation of land use plan decisions.

Multijurisdictional Planning: collaborative planning in which the purpose is to address land use planning issues for an area, such as an entire watershed or other landscape unit, in which there is a mix of public and/or private land ownerships and adjoining or overlapping tribal, State, local government, or other Federal agency authorities.

-O-

Objective: a description of a desired condition for a resource. Objectives can be quantified and measured and, where possible, have established time frames for achievement.

Open: generally denotes that an area is available for a particular use or uses. Refer to specific program definitions found in law, regulations, or policy guidance for application to individual programs. For example, 43 CFR 8340.0-5 defines the specific meaning of “open” as it relates to OHV use.

-P-

Permitted Use: the forage allocated by, or under the guidance of, an applicable land use plan for livestock grazing in an allotment under a permit or lease; expressed in Animal Unit Months (AUMs) (43 CFR 4100.0-5).

Planning Analysis: a process using appropriate resource data and NEPA analysis to provide a basis for decisions in areas not yet covered by an RMP.

Planning Criteria: the standards, rules, and other factors developed by managers and interdisciplinary teams for their use in forming judgments about decision making, analysis, and data collection during planning. Planning criteria streamline and simplify the resource management planning actions.

Provincial Advisory Council (PAC): see Resource Advisory Council.

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Public Land: land or interest in land owned by the United States and administered by the Secretary of the Interior through the BLM, except lands located on the Outer Continental Shelf, and land held for the benefit of Indians, Aleuts, and Eskimos.

-R-

Resource Advisory Council (RAC): a council established by the Secretary of the Interior to provide advice or recommendations to BLM management. In some states, Provincial Advisory Councils (PACs) are functional equivalents of RACs.

Resource Use Level: the level of use allowed within an area. It is based on the desired outcomes and land use allocations in the land use plan. Targets or goals for resource use levels are established on an area-wide or broad watershed level in the land use plan. Site-specific resource use levels are normally determined at the implementation level, based on site-specific resource conditions and needs as determined through resource monitoring and assessments.

Revision: the process of completely rewriting the land use plan due to changes in the planning area affecting major portions of the plan or the entire plan.

-S-

Scale: refers to the geographic area and data resolution under examination in an assessment or planning effort.

Social science: the study of society and of individual relationships in and to society, generally including one or more of the academic disciplines of sociology, economics, political science, geography, history, anthropology, and psychology.

Standard: a description of the physical and biological conditions or degree of function required for healthy, sustainable lands (e.g., land health standards).

State Implementation Plan (SIP): a strategic document, prepared by a State (or other authorized air quality regulatory agency) and approved by the U.S. Environmental Protection Agency, that thoroughly describes how requirements of the Clean Air Act will be implemented (including standards to be achieved, control measures to be applied, enforcement actions in case of violation, etc.).

Special status species: includes proposed species, listed species, and candidate species under the ESA; State-listed species; and BLM State Director-designated sensitive species (see BLM Manual 6840 - Special Status Species Policy).

Strategic Plan (BLM Strategic Plan): a plan that establishes the overall direction for the BLM. This plan is guided by the requirements of the Government Performance and Results Act of 1993, covers a 5-year period, and is updated every 3 years. It is consistent with FLPMA and other laws affecting the public lands.

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-T-

Total Maximum Daily Load (TMDL): an estimate of the total quantity of pollutants (from all sources: point, nonpoint, and natural) that may be allowed into waters without exceeding applicable water quality criteria.

Tribe: see Indian tribe.

Acronyms

ACEC	Area of Critical Environmental Concern
ADR	Alternative Dispute Resolution
AUM	Animal Unit Month
BLM	Bureau of Land Management
CA	Conservation Agreement
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CS	Conservation Strategy
CX	Categorical Exclusion
DM	Departmental Manual
DNA	Documentation of Land Use Plan Conformance and National Environmental Policy Act (NEPA) Adequacy
DOI	Department of the Interior
DR	Decision Record (for an EA)
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FACA	Federal Advisory Committee Act
FWS	Fish and Wildlife Service
FLPMA	Federal Land Policy and Management Act
FONSI	Finding of No Significant Impact
GIS	Geographic Information System
IBLA	Interior Board of Land Appeals
LAC	Limits of Acceptable Change
LUP	Land use plan
MFP	Management Framework Plan

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MOU	Memorandum of Understanding
NOA	Notice of Availability
NOI	Notice of Intent
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
OHV	Off-Highway Vehicle (also refers to Off-Road Vehicles)
PAC	Provincial Advisory Council
RAC	Resource Advisory Council
RMP	Resource Management Plan
ROD	Record of Decision (for an EIS)
ROS	Recreation Opportunity Spectrum
T&E	Threatened and Endangered
TMDL	Total Maximum Daily Load
U.S.C.	United States Code
VRM	Visual Resource Management

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H-1601-1 LAND USE PLANNING HANDBOOK**Appendix A
Guide to Collaborative Planning****I. Principles**

Collaboration implies that tribal, State, and local governments; other Federal agencies, and the public will be involved well before the planning process is officially initiated, rather than only at specific points stipulated by regulation and policy. The first-hand experience of BLM field managers and staff has resulted in the following suggested guidelines for collaboration.

- A. Recognize tribal, State, and local governments' role in the planning process. FLPMA, Section 202 (c) (9), as paraphrased, requires meaningful participation by local officials and consistency, to the extent practicable, with officially approved plans of tribal, State, and local governments so long as the plans are consistent with Federal laws and regulations. Early involvement will help ensure that BLM develops land use decisions that are supported by and conform to other jurisdictions in the area to the maximum extent possible.
- B. Be inclusive. Explicitly acknowledge the interests of distant groups, individuals, industry, corporations, and other agencies. An effective collaborative process for public land planning assures that local, regional, and national interests are integrated. Distant interests are sought out and encouraged. Effective outreach is the best way to get beyond the barriers to successful participation. Ensure multiple options for participation.
- C. Clearly cite the authority of collaborative groups, including that of BLM, and ensure accountability. Participants must understand the roles of all parties in the planning effort. If the planning effort includes other participants with jurisdictional responsibilities or decision-making authority, the responsibilities of each must be clearly identified. Decisions made by each jurisdiction must be within their own authorities. The BLM retains decision-making authority for all decisions on BLM lands. BLM does not need to be the lead agency for agency personnel to participate in collaborative efforts.
- D. Use collaboration to enhance and complement standard public involvement requirements. Individuals or groups that were unable or chose not to participate in a collaborative process are still entitled to full input through legally required public review and comment processes.
- E. Recognize that collaborative processes may not be effective everywhere. The BLM manager retains the authority to manage the planning process and may choose to move forward with traditional planning processes if collaborative efforts are ineffective or become unacceptably lengthy.

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II. Practices

A. Face-to-face or one-on-one communication provides the best means of building trust and good working relationships. Be sure to ask yourself and others questions such as the following:

1. Who else should I talk to? Who else should be involved? Whom do I need to approach to ensure the best contacts are made? How can BLM assure sufficiently diverse participation to adequately reflect local, regional, and national interests?
2. What formal and informal opportunities for communication could be used to relay BLM's message?

B. On a local level, postings on local bulletin boards and face-to-face communication may best serve community needs when presented in both English and local languages, depending on the unique characteristics of each community. Consider the following questions:

1. How does this community receive and send information? Would the use of Internet technology, such as websites and e-mail, be effective?
2. Are there community meetings where information and ideas are exchanged?

Although this approach may seem time consuming at first, it is eventually very effective in communicating efficiently with a large number of people, motivating people to implement the agreed upon strategy, building trust, and encouraging broad-based participation. It may seem daunting in urban settings, but the same approach can be effective once the above questions are answered. This approach provides BLM with a technique to more effectively engage the public in the decision-making process, which normally leads to increased support for the decisions ultimately reached. This approach also provides an early alert to emerging issues, giving a BLM manager more time and flexibility to resolve issues up front. As issues are resolved dynamically, conflict diminishes. These methods can be used in advance of, and are complementary to, a standard communications plan that defines what communications products are needed, who is responsible for producing them, and when specific products must be delivered.

BLM offices should maintain mailing lists of individuals and organizations that request involvement in specific activities or areas, such as rangeland developments or areas of critical environmental concern. Notices of intent and availability for planning/NEPA processes, along with other materials should be provided as requested. Offices should also maintain a listing of planned or ongoing planning/NEPA processes, make these lists available to the public, and encourage public participation throughout the decision-making process.

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Benefits of collaboration include the following:

- A. Better decisions are made. Concerns are heard and addressed, information and technical knowledge are shared, mutual goals and actions to achieve these goals are agreed upon, and plans are easier to implement as a result. Solutions tend to be more long-term and to stand up to legal scrutiny. Through collaboration with different landowners and jurisdictions, we are able to more effectively plan for the protection and use of BLM resources.
- B. Resources are leveraged more effectively. There are a variety of cost-share arrangements and grants available for collaborative and partnership initiatives that can help implement on-the-ground projects.
- C. Relationships are improved. Collaboration encourages people to continue to talk despite differences and changing circumstances, thus improving the ability to resolve conflict and build trust among participants.

IV. Tools

A. It is highly recommended that training on collaborative skills be completed before undertaking initiatives to work with private citizens and groups. The BLM National Training Center offers a series of courses, The Partnership Series, which can be taught in BLM locations to mixed public-private audiences rather than at the National Training Center. Visit their web site at www.ntc.blm.gov/partner for more information.

B. Innovative partnerships and assistance agreements are very helpful to launching collaborative efforts. The BLM Washington Office's Planning, Assessment, and Community Support Group (WO-210) can provide more information.

C. The BLM and the Sonoran Institute have prepared *A Desktop Reference Guide to Collaborative, Community-Based Planning* which is available at BLM State and Field Offices. This guide provides suggestions and examples for collaborative planning.

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H-1601-1 LAND USE PLANNING HANDBOOK**Appendix B****Federal Advisory Committee Act (FACA) Considerations****I. Purpose**

The Federal Advisory Committee Act (FACA), 5 U.S.C.A. App. 2 (86 Stat. 770, as amended), was enacted on October 6, 1972, to reduce narrow special-interest group influence on decision-makers, to foster equal access to the decision-making process for the general public, and to control costs by preventing the establishment of unnecessary advisory committees. The FACA applies whenever a statute or an agency official establishes or utilizes a committee, board, commission or similar group for the purpose of obtaining advice or recommendations on issues or policies within the agency official's responsibility.

The BLM's managers and staff must understand the provisions of FACA both when they are gathering public input for decision-making processes and when they are working in collaborative efforts, including ADR, to ensure BLM's collaborative efforts comply with FACA. In essence, any time a group will be consulted or will be providing recommendations to a BLM official, BLM should verify whether FACA applies and, if so, ensure that the FACA requirements are followed. If BLM fails to comply with FACA, it will leave its decisions and products open to challenge in court.

II. Implementing FACA**A. Avoiding Violations**

To avoid violating the FACA, BLM managers should:

1. Consider whether FACA applies to any current or proposed collaborative or group activity. FACA will apply if a group is established or utilized by BLM for the purpose of obtaining advice. In reaching decisions whether FACA will apply, managers should refer to the General Services Administration's (GSA) regulations at 41 CFR 102-3 and consult with the Office of the Solicitor. Further information about when FACA applies, including the FACA regulations, may be found at www.policyworks.gov/org/main/mc/linkit.htm or in the Committee Management Secretariat section of the GSA website.
 - a. If FACA applies, establishing a committee requires consultation with GSA, filing a charter, publishing a notice in the Federal Register, and opening meetings of the group to the public.
 - b. Existing groups are covered by FACA if they are "utilized" by a Federal agency. A group is "utilized" whenever a Federal agency exercises actual management or control over its operation.
2. For those groups covered by FACA, verify that its requirements are followed,

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including that an appropriate charter is filed, that there is balanced membership, that the public is informed of its meetings (time, place, purpose, etc.) through *Federal Register* publication, and that the meetings are open to the public. Consult with FACA experts to ensure compliance with its procedures.

Collaborative groups that are not initiated by BLM can avoid application of FACA and can continue to have active BLM participation by maintaining their independence from BLM actual management or control.

B. Determining if FACA Applies

The figure on Page B-3 outlines the basic requirements to determine if the provisions of FACA apply. If there is any doubt, the BLM Field Office should consult its Solicitor. The Field Office must determine whether FACA applies to a particular collaborative effort, and if it does, whether it would be beneficial to pursue the effort by chartering the group under FACA.

Answers to the following questions can be helpful in determining whether FACA does or does not apply:

1. Does the group include individuals who are not employees of tribal, State, or local governments or other Federal agencies?
2. Does the group have a formal organizational structure?
3. How was the group or meeting initiated? Specifically, was the group established by BLM?
4. Is the group subject to agency actual management or control?
5. What is the function of the group? Is it providing consensus advice or recommendations as a group to the agency?

FACA will not apply to any meeting initiated by the President or Federal official(s) with more than one individual to obtain the advice of individual attendees, provided that the Federal official does not exercise actual management or control over the group. The FACA does not apply to meetings held exclusively between Federal officials and tribal, State, and local elected officials, or their designated employees, where such meetings are solely for the purpose of exchanging views, information, or advice relating to the management or implementation of Federal intergovernmental programs (see Unfunded Mandates Reform Act, 2 U.S.C. 1534).

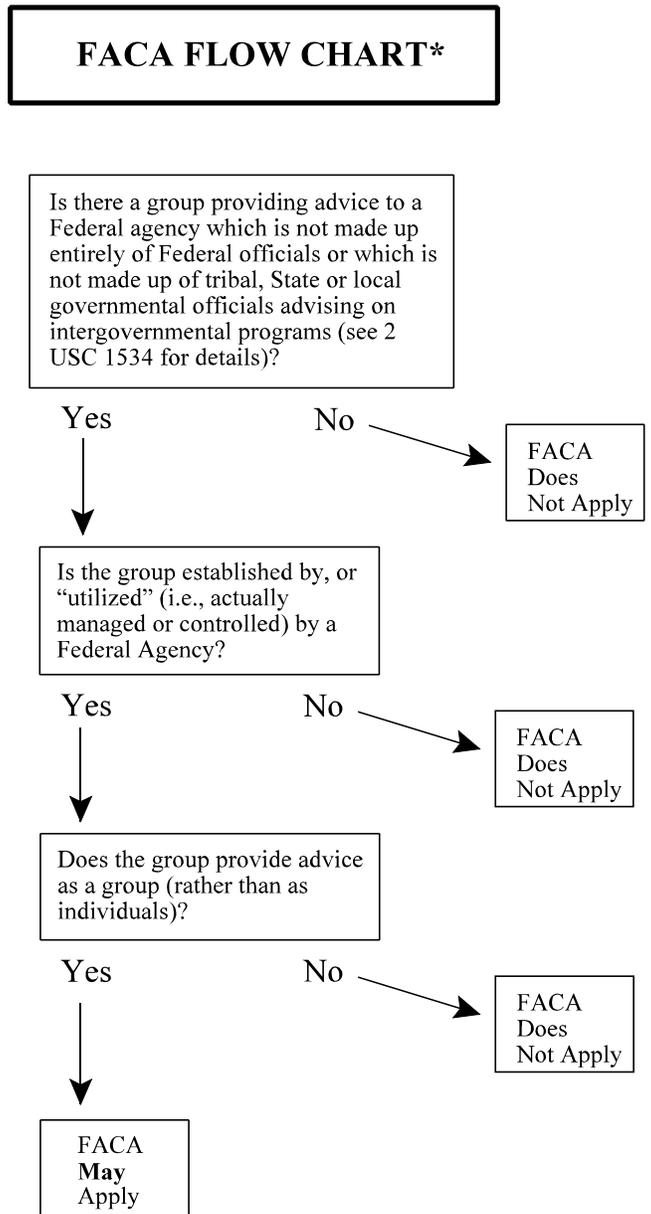
H-1601-1 LAND USE PLANNING HANDBOOK**C. FACA Requirements**

If a group is subject to FACA, there are a number of requirements that must be in place in order to proceed. Subcommittees may, under some circumstances, be subject to these requirements as well. Specific requirements include:

1. A charter describing the committee's function, duration, members, duties, frequency of meetings, and costs.
2. A designated Federal employee to attend all meetings and to approve meeting agendas.
3. Notices of meetings that are published in the *Federal Register* and other appropriate venues.
4. Meetings that are open to the public, with detailed minutes prepared for public review.

Further explanation is provided in BLM's Natural Resource Alternative Dispute Resolution Initiative Strategic Plan and Tool Kit, 9/11/1997, available at BLM State Offices.

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* This chart is for general guidance purposes only and should not be used to make final determinations regarding applicability of FACA. Such determinations must be made in consultation with the office of the Solicitor.

H-1601-1 LAND USE PLANNING HANDBOOK**Appendix C
Program-Specific and Resource-Specific Decision Guidance**

This Appendix provides three categories of planning information for BLM program areas: *Land Use Plan Decisions*; *Implementation Decisions*; and *Notices, Consultations, and Hearings*. Each program/resource heading contains resource-specific guidance for each category. The guidance presented for each resource should be addressed in conjunction with the guidance presented for other resources to maintain an integrated, interdisciplinary approach to planning.

Land Use Plan Decisions: These broad-scale decisions guide future land management actions and subsequent site-specific implementation decisions. Land use plan decisions fall into two categories: desired outcomes (goals; standards, including land health standards; and objectives), and allowable uses and actions to achieve outcomes. Proposed land use plan decisions are protestable to the BLM Director.

The application of program-specific guidance for land use plan decisions will vary, depending on the decision category, and must be applied as follows:

- I. Natural, Biological, and Cultural Resources: Decisions identified must be made during the land use planning process if the resource exists in the planning area.
- II. Resources Uses: Decisions identified must be made during the land use planning process if the resource may exist in the planning area and BLM anticipates it may authorize or allow its use.
- III. Special Designations: Special designation decisions identified must be made during the land use planning process when BLM anticipates it may authorize or allow uses which could disqualify inventoried resource values from designation. Special designation decisions may be made during the land use planning process when there is no threat to the inventoried resource.
- IV. Support: Support needs and decisions may be determined through the land use planning process, based on individual planning situations.

Decisions identifying desired outcomes, allowable uses and actions, or special designations must be included in at least one of the alternatives during development of the land use plan and associated environmental analysis.

Implementation Decisions: These decisions take action to implement land use plan decisions on a site-specific basis. They may be incorporated into implementation plans or may exist as stand-alone decisions. When issued, implementation decisions are generally appealable to the Interior Board of Land Appeals as outlined in 43 CFR Part 4 and summarized in Appendix F of this Handbook.

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Notices, Consultations, and Hearings: This section identifies resource-specific requirements and suggestions for notices, consultations, and hearings when developing land use plan decisions that are in addition to those identified in Chapter III of this Handbook. (Note: Some laws or regulations, such as the ESA and Clean Air Act, have notice, consultation, or hearing requirements that apply to most resource programs or activities. These requirements are identified in the primary program narrative but are not repeated for each program or activity that may be affected.)

I. Natural, Biological, and Cultural Resources**A. Air**

1. *Land Use Plan Decisions.* Identify desired future conditions and areawide criteria or restrictions, in cooperation with the appropriate air quality regulatory agency, that apply to direct or authorized emission-generating activities, including the Clean Air Act's requirements for compliance with:

- a. Applicable National Ambient Air Quality Standards (Section 109);
- b. State Implementation Plans (Section 110);
- c. Control of Pollution from Federal Facilities (Section 118);
- d. Prevention of Significant Deterioration, including visibility impacts to mandatory Federal Class I Areas (Section 160 *et. seq.*); and
- e. Conformity Analyses and Determinations (Section 176(c)).

2. *Implementation Decisions.* Identify site-specific emission control strategies, processes, and actions to achieve desired air quality conditions from direct or authorized emission-generating activities.

3. *Notices, Consultations, and Hearings.* Consult, coordinate, and comply with applicable tribal, Federal, State, and local air quality regulations, as required by the Clean Air Act, Executive Order 12088, and tribal, Federal or State Implementation Plans.

B. Soil and Water

1. *Land Use Plan Decisions.* Identify desired future conditions (including standards or goals under the Clean Water Act). Identify watersheds that may need special protection from the standpoint of human health concerns, aquatic ecosystem health, or other public uses. For riparian areas, identify desired width/depth ratios, streambank conditions, channel substrate conditions, and large woody material characteristics. Identify areawide use restrictions or other protective measures to meet tribal, State, and local water quality requirements. Identify measures, including filing for water rights under state permit procedures, to ensure water availability for multiple use management and functioning, healthy riparian and upland systems.

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2. *Implementation Decisions.* Identify the site-specific or basin-specific soil, riparian, or nonpoint-source best management practices and rehabilitation techniques needed to meet tribal, State and local water quality requirements.

3. *Notices, Consultations, and Hearings:* Consult and coordinate with other Federal, State, and local agencies, as directed by the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1009), and the Clean Water Act (33 U.S.C. 1251) (see BLM Manual 7000).

C. Vegetation

1. *Land Use Plan Decisions.* Identify desired future conditions for vegetative resources, including the desired mix of vegetative types, structural stages, and landscape and riparian functions, and provide for native plant, fish, and wildlife habitats. Designate priority plant species and habitats, including Special Status Species and populations of plant species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age. Identify the actions and areawide use restrictions needed to achieve desired vegetative conditions.

2. *Implementation Decisions.* Identify site-specific vegetation management practices such as allotment grazing systems, vegetation treatments, or manipulation methods to achieve desired plant communities, as well as integrated vegetation management techniques to rehabilitate weed infestations or otherwise control noxious and invasive weeds.

3. *Notices, Consultations, and Hearings:* Consult under Section 7 of the ESA, or a parallel State ESA law or agreement, for all actions that may affect listed species or designated critical habitat or that may adversely affect proposed species' critical habitat (see Section I.G of this Appendix and BLM Handbook H-6840).

D. Cultural Resources

1. *Land Use Plan Decisions.* Identify areawide criteria or site-specific use restrictions that apply to special cultural resource issues, including traditional cultural properties, that may affect the location, timing, or method of development or use of other resources in the planning area. Identify measures to pro-actively manage, protect, and use cultural resources, including traditional cultural properties.

2. *Implementation Decisions.* Identify protection measures and opportunities to use cultural properties for scientific, educational, recreational, and traditional purposes. Evaluate whether intended uses would result in changes to cultural properties' significance or preservation value, and if so, how resource condition should be monitored, measured, and maintained at an acceptable level.

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3. *Notices, Consultations, and Hearings.*

- a. Consistent with the national Programmatic Agreement and individual State BLM-SHPO protocols, invite the State Historic Preservation Officer (SHPO) to participate from the outset of planning in order to reduce the potential for cultural resource conflicts with other resource uses as plans are implemented.
- b. For States not operating under a BLM-SHPO protocol, such as Eastern States, consult with the State Historic Preservation Officer (SHPO) before plan approval concerning any actions that may be directly implemented upon plan approval and could affect a cultural property listed in or eligible for the National Register of Historic Places (see 36 CFR 800).
- c. Formal consultations under Section 106 of the National Historic Preservation Act usually take place during implementation planning; however, consult with the SHPO during land use planning regarding cultural resource evaluation recommendations (36 CFR 800.4 (c)).
- d. Consult tribal leaders and traditional religious practitioners under the American Indian Religious Freedom Act about any management objectives and actions that might affect Native American religious practices, including access to sacred sites. Consult tribal leaders under the National Historic Preservation Act about any management objectives or actions that might affect properties of traditional cultural importance.

E. Paleontology

1. *Land Use Plan Decisions.* Identify areawide criteria or site-specific use restrictions to ensure that (a) areas containing, or that are likely to contain, vertebrate or noteworthy occurrences of invertebrate or plant fossils are identified and evaluated prior to authorizing surface-disturbing activities; (b) management recommendations are developed to promote the scientific, educational, and recreational uses of fossils; and (c) threats to paleontological resources are identified and mitigated as appropriate.

2. *Implementation Decisions.* Identify appropriate protection measures and scientific, educational and recreational use opportunities for paleontological localities.

3. *Notices, Consultations, and Hearings.* No additional specific requirements exist.

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1. *Land Use Plan Decisions.* Designate VRM classes. (See BLM Handbook H-8410-1 for a description of VRM classes.)

2. *Implementation Decisions.* Design implementation decisions and actions to achieve VRM objectives.

3. *Notices, Consultations, and Hearings.* No additional specific requirements exist.

G. Special Status Species

1. *Land Use Plan Decisions.* Identify strategies and decisions to conserve and recover special status species. Given the legal mandate to conserve threatened or endangered species and BLM's policy to conserve all Special Status Species, land use planning strategies and decisions should result in a reasonable conservation strategy for these species. Land use plan decisions should be clear and sufficiently detailed to enhance habitat or prevent avoidable loss of habitat pending the development and implementation of implementation-level plans. This may include identifying stipulations or criteria that would be applied to implementation actions. Land use plan decisions should be consistent with BLM's mandate to recover listed species and should be consistent with objectives and recommended actions in approved recovery plans, conservation agreements and strategies, MOUs, and applicable biological opinions for threatened and endangered species.

2. *Implementation Decisions.* Identify the programmatic and site-specific actions needed to implement planning decisions for conserving and recovering Special Status Species. These decisions are normally identified in implementation plans for habitat management areas, ACECs, grazing allotments, etc. The priority and implementation schedule for implementation planning should be included in the plan.

3. *Notices, Consultations, and Hearings.* Consultation with the U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) is required by the ESA for actions (plans, programs, or projects) that may affect listed species and designated critical habitat, and conferencing is needed if actions may adversely affect a proposed species and proposed critical habitat. (See 50 CFR 402.13 and BLM Manual Section 6840.) Depending on state-specific agreements or policies, there may be additional requirements to confer with State wildlife agencies if Federal actions may affect State-listed species or their habitats.

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a. Memorandum of Agreement with the FWS and the Forest Service. The BLM has entered into a Memorandum of Agreement (MOA) with the FWS, and the U.S.D.A. Forest Service to improve the efficiency and effectiveness of plan-level Section 7 consultation processes under the ESA. Through this MOA, the BLM agrees to promote the conservation of candidate, proposed, and listed species and to informally and formally consult/confer on listed and proposed species and designated and proposed critical habitat during planning (1) to assure that activities implemented under these plans minimize or avoid adverse impacts to such species and any critical habitat; (2) to assure that such activities implemented under these plans do not preclude future conservation opportunities; (3) to use, where possible, formal conference procedures specified in 50 CFR 402 to avoid conflicts between elements contained in plans and the requirements for conservation of the proposed species and proposed critical habitat; and (4) to analyze the effects of the plan on candidate species pursuant to agency planning requirements.

The MOA establishes interagency commitment to and guidance for the following: (1) early interagency communication, coordination, consultation, and conferencing on candidate, proposed, and listed species to take place prior to and during plan proposal development; (2) consultations/conferencing on land use plan adoption, revision, amendment, and ongoing plans where re-initiation is required (see discussion below); (3) implementation guidance for plan consultation; (4) efficiency through a consistent, programmatic interagency cooperative consultation process; (5) assurance that ongoing activities do not jeopardize listed species, result in the destruction/adverse modification of designated critical habitat, or result in unauthorized take during consultations on an existing management plan; and (6) consultation or conferencing on both land management plans and other programmatic-level proposals for species listed or critical habitat designated since the adoption of a plan (see Appendix G).

b. Informal Consultation. During preparation of draft land use plan decisions and associated NEPA analysis, informal consultation should be initiated on the preferred alternative with the FWS or the NMFS. Including representatives from these agencies on the planning team during development of alternatives allows the agencies to adequately address and discuss the effects of management actions on listed and proposed species and their critical habitats, and to identify actions to achieve:

- (1) **No effect** on listed species or their critical habitat,
- (2) **May affect**, but not likely to adversely affect, determination for proposed species, or not likely to adversely modify proposed critical habitat.
- (3) **Beneficial effect** for all listed species and critical habitat.

Informal consultation may reduce or eliminate the need for formal consultation. If formal consultation is required, as determined by the FWS or NMFS, the consultation process must be completed before the decision is approved. If formal consultation is not required, this must be documented in the planning record by a letter of concurrence from the FWS or NMFS.

c. Formal Consultation. The ESA and 50 CFR 402.16 outline criteria for re-

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initiating consultation when there has been significant change since the original consultation. Based on these criteria, consultation on land use plan and implementation decisions must be re-initiated for any of the following reasons:

- (1) New information shows that the plan decisions may affect listed or proposed species or critical habitat in a way or to an extent not previously considered.
- (2) Land use plan and/or implementation decisions are modified in a way that may cause adverse effects to the listed or proposed species or critical habitat that were not considered in the biological opinion.
- (3) Implementation of existing land use plan decisions could affect a newly listed species or newly designated critical habitat.
- (4) The amount or extent of incidental take is exceeded.

d. Consultation under ESA with Indian Tribes. DOI's Secretarial Order 3206: American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act, dated June 5, 1997, requires Department of the Interior agencies to consult with Indian tribes when agency actions to protect a listed species, as a result of compliance with ESA, affect or may affect Indian lands, tribal trust resources, or the exercise of American Indian tribal rights. Consultation under this Order should be closely coordinated with regional or field offices of the FWS and/or NMFS for game and nongame species.

H. Fish and Wildlife

1. *Land Use Plan Decisions.* Acknowledging the States' roles in managing fish and wildlife and working in close coordination with State wildlife agencies, describe existing and desired population and habitat conditions for major habitat types that support a wide variety of game and nongame species. Designate priority species and habitats, including Special Status Species, and populations of fish or wildlife species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age. Identify actions and areawide use restrictions needed to achieve desired population and habitat conditions while maintaining a thriving natural ecological balance and multiple-use relationships. (Also see Section G above for Special Status Species management.)

2. *Implementation Decisions.* Identify site-specific actions, such as riparian fencing, guzzler placement, etc., needed to manage ecosystems for all species and habitat for special status species.

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3. *Notices, Consultations, and Hearings.* Consult under Section 7 of the ESA, along with parallel State ESA laws or agreements as applicable, for all actions that may affect listed species or designated critical habitat or that may adversely affect proposed species critical habitat (see Section I.G of this Appendix and BLM Handbook H-6840).

I. Wild Horses and Burros

1. *Land Use Plan Decisions.* Identify the following (see 43 CFR 4700):

a. Herd Areas. Herd areas (HAs) are limited to areas of the public lands identified as being habitat used by wild horses and burros at the time of the passage of the Wild Horse and Burro Act, as amended (16 U.S.C. 1331 - 1340). Herd Area boundaries may only be changed when it is determined that (1) areas once listed as HAs are later found to be used only by privately owned horses or burros, or (2) the HA boundary does not correctly portray where wild horses and burros were found in 1971.

b. Herd Management Area Designation. Herd Management Areas (HMA) are established only on areas within HAs within which wild horses and/or burros can be managed for the long term. For HMAs, identify the following:

(1) Initial and estimated herd size that could be managed while still preserving and maintaining a thriving natural ecological balance and multiple-use relationships for that area.

(2) Guidelines and criteria for adjusting herd size.

c. Herd Areas Not Designated as Herd Management Areas. Where appropriate, the LUP may include decisions removing horses from all or part of a herd area. Examples could be where private land owners have intermingled and unfenced lands within herd areas and do not want to make them available for wild horse or burro use; or essential habitat components are not available for wild horse or burro use within a herd area.

d. Wild Horse and Burro Ranges. An HMA may be considered for designation as a wild horse or burro range when there is a significant public value present, such as unique characteristics in a herd or an outstanding opportunity for public viewing.

e. Areawide Restrictions Needed to Achieve Objectives. As one example, if domestic horses in HMAs are not compatible with wild horse management policies, then, domestic horse grazing must not be permitted in HMAs or adjacent to HMAs if domestic and wild horses are likely to intermingle.

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2. *Implementation Decisions.* Identify and set objectives for herd composition, animal characteristics, and habitat development needs. Establish appropriate management levels (AMLs) based on monitoring and evaluations, including the population range within which the herd size will be allowed to fluctuate.

3. *Notices, Consultations, and Hearings.* The Wild and Free-Roaming Horses and Burros Act, as amended (16 U.S.C. 1331 - 1340) requires BLM to consult with Federal and State wildlife agencies and all other affected interests during land use and implementation planning for the management of wild horse and burros.

Public hearings are required when anticipated management activities involve the use of helicopters to capture, or the use of motor vehicles to transport, wild horses and burros. Hearings are held in the State where the activities are proposed and are normally conducted on an annual basis (see 43 CFR 4740).

J. Fire Management

1. *Land Use Plan Decisions.* Identify the following to achieve desired outcomes:

- a. Areas where wildland fire is not desired at all. In these areas, emphasis should be placed on prevention, detection, rapid response, use of appropriate suppression techniques and tools, and *non-fire fuels treatment*. Fire suppression may be required to prevent unacceptable resource damage or to prevent loss of life and property.
- b. Areas where unplanned fire is likely to cause negative effects, but these effects can be mitigated or avoided through fuels management (e.g., prescribed fire), prevention of human-caused fire, or other strategies.
- c. Areas where fire is desired to manage ecosystems but where there are constraints because of the existing vegetation condition due to fire exclusion (i.e., more substantial non-fire fuels treatments may be necessary prior to use of prescribed fire).
- d. Areas where fire is desired, and where there are no constraints associated with resource conditions or social, economic, or political considerations (i.e., where natural and management-ignited fire may be used to achieve desired objectives, such as to improve vegetation or watershed condition).
- e. Broad treatment levels in areas 1.b. through 1.d., above.

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- f. General restrictions on fire management practices (including both wildfire suppression and fuels management) if any are needed to protect other resource values. Restrictions may vary by area in 1.a. through 1.d., above, and may be structured to allow the local manager the flexibility to apply restrictions on a seasonal or annual basis, based on resource conditions, weather factors, and operational capability.

2. *Implementation Decisions.* Develop objectives, desired conditions, acceptable acres burned, and standards and guidelines for fire prevention, fire suppression, fuels management, and rehabilitation actions on a site-specific basis for each management area. Identify constraints and acceptable tactics for protection of sensitive sites. Establish priorities for fire prevention, fire preparedness, fire suppression, fuels management, and fire rehabilitation. Establish a long-term plan for fire prevention, fuels treatment and vegetative restoration. Modify preparedness and protection strategies based on treatments implemented, and new and emerging resource issues. Identify site-specific planned treatment levels, types or combinations of fuels treatments to be used (i.e., prescribed fire, mechanical, thinning, and chemical), the location and size of fuels management projects, and specific layout and design features of fuels management projects, including acceptable burned areas. Identify the number and types of personnel, base locations, and equipment for prevention, protection, suppression, fuels treatment, and fire rehabilitation. Identify prescription parameters for suppression and prescribed fire areas (see BLM Handbook H-9211-1 and BLM Handbook H-9214-1).

3. *Notices, Consultations, and Hearings.* Consult, coordinate, and comply with tribes, Federal agencies, and State and local governments regarding smoke management where required by the Clean Air Act, E.O. 12088 (Federal Compliance with Pollution Control Standards), and State Implementation Plans. Consult and coordinate with adjacent tribes, Federal agencies, and State and local governments to establish protection and fuels management priorities.

II. Resource Uses

A. Forestry

1. *Land Use Plan Decisions:* Identify characteristics (indicators) to describe healthy forest conditions (i.e., desired future conditions) for forest/woodland types found within the planning area. Identify the suite of management actions (including appropriate harvest, reforestation, and forest development methods), and associated best management practices, that can be applied to meet desired future conditions and underlying land use allocations.

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Identify areas that are available and have the capacity for planned, sustained-yield timber harvest or special forest product harvest. A probable sale quantity (PSQ) should be determined, if possible, for those areas determined to be available for harvest. The PSQ is the allowable harvest level that can be maintained without decline over the long term if the schedule of harvests and regeneration are followed. PSQ recognizes a level of uncertainty in meeting the determined level; this uncertainty is typically based on other environmental factors that preclude harvesting at a particular time (for example, because of watershed or habitat concerns). A PSQ is *not* a commitment to cut a specific level of timber volume every year.

2. *Implementation Decisions*: Identify individual timber or special forest product sale locations and schedules; site-specific intensive management practices, locations, and schedules; and restrictions associated with forestry activities. Identify individual forest health treatment activities by location and schedule.

3. *Notices, Consultations, and Hearings*: No additional specific requirements exist.

B. Livestock Grazing

1. *Land Use Plan Decisions*: Identify lands available or not available for livestock grazing (see 43 CFR 4130.2 (a)), considering the following factors:

- a. Other uses for the land.
- b. Terrain characteristics.
- c. Soil, vegetation, and watershed characteristics.
- d. The presence of undesirable vegetation, including significant invasive weed infestations.
- e. The presence of other resources that may require special management or protection, such as special status species, Special Recreation Management Areas (SRMAs), or ACECs.

Information related to these factors is normally obtained through the resource assessment process described in Handbook Section III.A.2.

Decisions identifying lands available, or not available, for livestock grazing may be revisited through the amendment or revision process if the grazing preference or permit on those lands has been voluntarily relinquished, or if there are outstanding requests to voluntarily relinquish the grazing preference. If an evaluation of Land Health Standards identifies an allotment or group of allotments where Land Health Standards cannot be achieved under any level or management of livestock use, then decisions identifying those areas as available for livestock grazing need to be revisited.

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For lands available for livestock grazing, identify on an areawide basis both the existing permitted use and the future anticipated permitted use with full implementation of the land use plan while maintaining a thriving natural ecological balance and multiple-use relationships. In addition, identify guidelines and criteria for future allotment-specific adjustments in permitted use, season of use, or other grazing management practices.

2. *Implementation Decisions:* For areas available for grazing, identify allotment-specific (for one or several allotments) grazing management practices and permitted use based on monitoring and assessment information, as well as constraints and needs related to other resources. Grazing management practices and levels of permitted use must achieve the desired outcomes outlined in the land use plan, including rangeland health standards (or comprehensive land health standards) or must result in significant progress toward fulfilling of rangeland health standards; they must also conform to the guidelines required under 43 CFR 4180.2(c).

3. *Notices, Consultations, and Hearings:* Conduct appropriate consultation, cooperation, and coordination actions as required under 43 CFR 4130.2 (b). Copies of proposed decisions on grazing use are sent to interested members of the public in accordance with 43 CFR 4160.1.

C. Recreation

1. *Land Use Plan Decisions:* Identify allowable kinds and levels of recreation to sustain the goals, standards, and objectives that balance the public's recreation demands with the natural resource capabilities within the planning area. Acknowledge State wildlife agencies' roles in managing fish and wildlife resources as related to hunting and fishing licences and regulations. Identify the general management strategies, including major actions, limitations, and restrictions required to maintain recreational values. These may be portrayed as management zones. Identify Special Recreation Management Areas (SRMA). Anything not designated as an SRMA will, by default, become an Extensive Recreation Management Area (ERMA) for those areas open to recreational use. Specific designation of ERMAs is not required (8300 Manual).

All public lands are required to have OHV designations (see 43 CFR 8342.1). All OHV designations, including road and trail designations or redesignations (see 43 CFR 8340.0-8 and 8342.2), must be made through the land use planning process described in 43 CFR 1600. OHV designations should be reviewed periodically to ensure that resource objectives are being met (see 43 CFR 8342.3).

All public lands must be designated as "open," "limited," or "closed" to OHVs (43 CFR 8342.1). "Open" designations are used primarily for sites selected for intensive OHV recreation, where there are no compelling resource protection needs, user conflicts, or public safety issues that warrant limiting cross-country use. Except for interim designations described below, on lands that are designated as "limited," include a map showing the transportation network of roads and trails available for use under the terms and conditions set forth in the land use plan.

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For lands where vehicle use designations have not been completed or the current designations are out-of-date because of use changes and/or resource impacts, and a new planning start or revision is not scheduled to begin within two years of the release date of this Handbook, an interim designation through a land use plan amendment may be completed and implemented until such time as permanent designations are made. These interim designations must, at a minimum, establish designations that are sufficient to initiate vehicle management in areas where limited-use restrictions (such as limited to existing or designated roads and/or trails) are warranted and/or identify areas that should be immediately designated as closed to all types of vehicle use. Where interim designations are implemented and vehicle use is limited to existing or designated roads and/or trails, as opposed to seasonal or other types of administrative limitations, a plan amendment to designate the specific roads and trails on which vehicle use is allowed must be initiated within 5 years of completion of the interim designation.

At a minimum, the OHV designations for wilderness study areas (WSAs) must be “limited” to ways and trails existing at the time of inventory, unless “open” is appropriate for a sand dune or snow area. This applies to both motorized and mechanized transport (see Wilderness Study Area Handbook H-8550-1, I.B.11, and refer to 43 CFR 8364.1 for mechanized transport). In addition, future designations may be made for a WSA if it is released from study. Except as otherwise provided by law (e.g, the Alaska National Interest Lands Conservation Act), congressionally designated wilderness areas are statutorily closed to motorized and mechanized use; this should be shown in the land use plan along with the acreage affected.

2. *Implementation Decisions:* Identify site-specific visitor services and facilities, such as interpretive exhibits, campgrounds, and signs. Identify methods to ensure that recreation programs and facilities are accessible to visitors with disabilities. Where appropriate, determine visitor capacity using accepted methodologies such as Limits of Acceptable Change (LAC). Determine type of use within the planning area using Recreation Opportunity Spectrum (ROS) classes and applicable techniques such as Benefits-Based Management (BBM) or Outcomes-Based Management. On-the-ground decisions such as road and trail maintenance, signing, and parking will be addressed in implementation planning or in a specific travel management plan, as appropriate. Any new area, road, or trail OHV designation or redesignation, however, requires a land use plan revision or amendment (see 43 CFR 8342.2).

3. *Notices, Consultations, and Hearings:* No additional specific requirements exist.

D. Lands and Realty

1. *Land Use Plan Decisions:* Identify the following consistent with the goals, standards, and objectives for natural resources within the planning area:

- a. Lands that are available for disposal under a variety of disposal authorities, provided they meet the criteria provided in FLPMA (Section 203 and 206) or other statutes and regulations (see Handbook Section II.B.2).

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- b. Lands available for disposal under specific authorities and disposal criteria (e.g., disposal only through sale, through sale or exchange, or only through the Recreation and Public Purposes Act). Also see Section II.B.2.
- c. Criteria under which proposed Section 205 acquisitions of land, or interests in land, would occur as described in Handbook Section II.B.2.
- d. Proposed withdrawal areas (see 43 CFR 2300).
- e. Land Classifications under Section 7 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315f). The procedures applicable to Section 7 outlined in 43 CFR 2400 must be followed. The following actions require classification: Recreation and Public Purposes Act sales (see 43 CFR 2740) and leases (see 43 CFR 2912); agricultural entries (see 43 CFR 2520, 2530, 2610); and State grants (see 43 CFR 2620). To the extent that the land use planning procedures pursuant to 43 CFR 1600 differ from applicable classification procedures under 43 CFR 2400, the latter procedures shall be followed and applied. The analysis that supports classification decisions is normally the same analysis utilized in the land use planning/NEPA process to make decisions concerning the disposal or retention of public lands. For any classification decision made through the land use plan, initiate the classification decision requirements (i.e., proposed and initial decisions required under 43 CFR 2400) at the time the decision document is issued for the land use plan.
- f. Where and under what circumstances land use authorizations such as major leases and land use permits may be granted (see 43 CFR 2920).
- g. Right-of-way corridors, avoidance areas, and exclusion areas, along with any general terms and conditions that may apply (see 43 CFR Part 2800).

2. *Implementation Decisions:* Identify exchange agreements, land sale plans, approvals of leases and permits, and all subsequent phases of case processing. Identify issuance of site-specific right-of-way grants and authorizations. Identify authorization notices for those actions that require classification or other notices, including sales, exchanges, State selections, Recreation and Public Purposes Act sales and leases, agricultural entries, and other land disposal actions.

3. *Notices, Consultations, and Hearings:* Consult with parties to Interagency Agreements or MOUs relating to corridor identification or use. The Western Utility Group must be consulted when developing decisions affecting utility use. Consult with Indian tribes and State and local governments having an interest in or jurisdiction over lands proposed for disposal or acquisition.

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1. *Land Use Plan Decisions:* Identify the following consistent with the goals, standards, and objectives for natural resources within the planning area:

- a. Unleased coal lands that are acceptable for further consideration for coal leasing and development and those that are not (see 43 CFR 3461).
- b. Areas unsuitable for surface mining of coal (43 CFR 1610.7-1) under the criteria set forth in 43 CFR 3461.5.
- c. For acceptable lands, areas suitable for development by all mining methods or by only certain stipulated mining methods, such as surface or underground mining (see 43 CFR 3461).
- d. Any special conditions that must be met during more detailed planning, lease sale, or post-lease activities, including measures required to protect other resource values (see 43 CFR 3461).

2. *Implementation Decisions:* Process lease applications and lease exchanges, and delineate coal tracts for disposal.

3. *Notices, Consultations, and Hearings:*

- a. Publish a call for coal and other resource information in the *Federal Register* and the local news media before initiating, revising, or amending land use plans or a land use analysis involving coal. (See 43 CFR 3461.)
- b. Publish in the *Federal Register* a notice under 43 CFR 3461, providing for a minimum 30-day comment period on the results of the application of unsuitability criteria, exemptions, and exceptions.
- c. Consult as required under 43 CFR 3461.5 for unsuitability criteria 7 through 11, criteria 13 through 15, and criterion 17.
- d. Consult qualified surface owners as required under 43 CFR 3420.1-4 (e) (4) to determine their preference for or against surface mining. If a significant number of qualified surface owners in an area do not support surface mining, BLM can consider only underground mining unless one of the exceptions in 43 CFR 3420.1-4 (e) (4) (ii) or (iii) applies.
- e. Consult Indian tribes, other Federal agencies, and States as required under 43 CFR 3420.1-6 and 3420.1-7.

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- f. Hold a public hearing as required under 43 CFR 1610.2(k) and 43 CFR 3420.1-5 if requested.

F. Fluid Minerals: Oil and Gas, Tar Sands, Geothermal Resources, and Coal Bed Methane.

1. *Land Use Plan Decisions:* Identify the following consistent with the goals, standards, and objectives for natural resources within the planning area:

- a. Areas open to leasing, subject to the terms and conditions of the standard lease form.
- b. Areas open to leasing, subject to minor constraints such as seasonal restrictions. (These are areas where it has been determined that moderately restrictive lease stipulations may be required to mitigate impacts to other land uses or resource values.)
- c. Areas open to leasing, subject to major constraints such as no surface occupancy stipulations on an area more than 40 acres in size or more than 1/4 mile in width. (These are areas where it has been determined that highly restrictive lease stipulations are required to mitigate impacts to other lands or resource values. This category also includes areas where overlapping minor constraints would severely limit development of fluid mineral resources.)
- d. Areas closed to leasing. (These are areas where it has been determined that other land uses or resource values cannot be adequately protected with even the most restrictive lease stipulations; appropriate protection can be ensured only by closing the lands to leasing.) Identify whether such closures are discretionary or nondiscretionary.
- e. Lease stipulations that apply to areas open to leasing.
- f. Whether the leasing and development decisions also apply to geophysical exploration.

A determination that lands are available for leasing represents a commitment to allow surface use under standard terms and conditions unless stipulations constraining development are attached to leases. All stipulations must have waiver, exception, or modification criteria documented in the plan (H-1624-1 and 43 CFR 3101.1-4). When applying leasing restrictions, the least restrictive constraint to meet the resource protection objective should be used (see H-1624-1).

2. *Implementation Decisions:* Address site-specific actions such as geophysical exploration, approval of applications for permit to drill (APDs), well siting, tank battery placement, and pipeline routing.

3. *Notices, Consultations, and Hearings:* Public notice shall be given 45 days before

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offering lands for lease and 30 days before approving APDs or substantially modifying the terms of any lease.

G. Locatable Minerals, Mineral Materials, and Nonenergy Leasable Minerals

1. *Land Use Plan Decisions*: Identify the following consistent with the goals, standards, and objectives for natural resources within the planning area:

- a. Areas open or closed to the operation of the mining laws, mineral material disposal, and nonenergy leasing.
- b. In open areas, identify any areawide terms, conditions, or other special considerations needed to protect resource values.

2. *Implementation Decisions*: Authorize leases and permits and identify site-specific constraints.

3. *Notices, Consultations, and Hearings*: Recommend proposed withdrawals to the Secretary of the Interior for appropriate action pursuant to Section 204 (a) of FLPMA. Comply with the congressional notice provisions of Section 204 of FLPMA (43 U.S.C. 1714) for withdrawals of 5,000 acres or more.

III. Special Designations

A. Congressional Designations

1. *Land Use Plan Decisions*: Consistent with the goals, standards, and objectives for the planning area, make the following determinations:

- a. Recommend areas for designation such as National Conservation Areas, National Wild and Scenic Rivers, National Historic or Scenic Trails, or National Recreation Areas. BLM will develop stand-alone RMP/EIS-level plans for all National Monuments and National Conservation Areas.

2. *Implementation Decisions*: Develop site-specific implementation actions and plans for congressionally designated areas.

3. *Notices, Consultations, and Hearings*: No additional specific requirements.

B. Administrative Designations

1. *Land Use Plan Decisions*: Consistent with the goals, standards and objectives for the planning area, make the following determinations:

- a. Designate WSAs to be managed under the interim management policy. (H-8550-1). Identify management direction for WSAs should they be released

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from wilderness consideration by Congress.

- b. Determine which eligible river segments are suitable for inclusion in the National Wild and Scenic River System.
- c. Designate ACECs and identify goals, standards, and objectives for each area, as well as general management practices and uses, including necessary constraints and mitigation measures (also see BLM Manual 1613). ACECs must meet the relevance and importance criteria in 43 CFR 1610.7-2 (b) and must require special management to:
 - (1) Protect the area and prevent irreparable damage to resources or natural systems.
 - (2) Protect life and promote safety in areas where natural hazards exist.
- d. Designate Research Natural Areas and Outstanding Natural Areas as types of ACECs using the ACEC designation process.
- e. Designate Back Country Byways, Watchable Wildlife Viewing Sites, Wild Horse and Burro Ranges, or other BLM administrative designations.

Subject to valid existing rights, avoid approval of proposed actions that could degrade the values of potential special designations. Proposed actions will be reviewed on a case-by-case basis and impacts to an area's values will be assessed. The standard for this review is the protection of the area's resources and values so that the area will not be disqualified from designation. Subject to valid existing rights, proposed actions that can not meet this standard should be postponed, relocated, mitigated, or denied.

2. Implementation Decisions: Develop site-specific management actions and constraints. Evaluate and issue permits for scientific, educational, or recreational activities, and develop project plans for trails, interpretive exhibits, resource rehabilitation, and other site-specific activities. Protective management provisions must be followed to enhance or protect identified resource values and/or characteristics.

3. Notices, Consultations, and Hearings: Publish a *Federal Register* notice providing a 60-day comment period on proposed ACEC recommendations and resource use limitations (see 43 CFR 1610.7-2 (b)).

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The planning regulations in 43 CFR 1601.0-5 (k) (6) provide that land use plans may identify support needs such as access development, realty actions, engineering, cadastral survey, etc.

A. Cadastral

1. Land Use Plan Decisions: Identify planning boundaries so the geographic extent of land use decisions is clearly understood. The plan may identify areas where additional cadastral survey work is needed to locate and mark boundaries on the ground, including those areas identified for disposal. The plan may also identify the need to complete more detailed boundary management plans.

2. Implementation Decisions: If necessary, develop a boundary management plan for locating and marking priority areas. Identify areas needing immediate trespass resolution.

B. Transportation and Facilities (Reserved)

The BLM Engineering Advisory Team is currently working to identify transportation- and facilities-related decision requirements at both the land use plan and implementation level. Appropriate decision requirements will be developed through a public process and incorporated into this section. This is expected to be completed by the end of fiscal year 2001.

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H-1601-1 LAND USE PLANNING HANDBOOK**Appendix D****Social Science¹ Considerations in Land Use Planning Decisions****I. Introduction**

This section provides guidance on integrating social science information into the planning process. Any information gathered in support of a planning effort must be considered in the context of BLM's legal mandates.

The BLM is required by Section 202 of FLPMA to integrate "...physical, biological, economic, and other sciences..." in developing land use plans (43 U.S.C. 1712). Section 102 of NEPA requires Federal agencies to "...insure the integrated use of the natural and social sciences ... in planning and decision making..." (42 U.S.C. 4332). Executive Order 12898 (Environmental Justice) requires Federal agencies to "...identify and address ... disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States..." As indicated by these legal mandates, social science information is required to make informed, legal land use planning decisions.

A. Defining social science information in land use planning.

Social science information in land use planning can include the economic, political, and social structure of communities, regions, and the nation as a whole; social values, beliefs, and attitudes; how people interact with the landscape; and sense-of-place issues. The social sciences integrate a wide variety of disciplines, generally including economics, sociology, demography, anthropology, archaeology, political science, geography, history, and landscape architecture, among others. The social sciences can help define the relationships between resource issues and social science questions, concepts, and values. Social science information included in any given analysis depends upon the specific issues being assessed.

¹"Social Science" is sometimes also referred to as "socio-economics" or "social and economic" information. For the purposes of this Handbook, these terms are all interchangeable.

H-1601-1 LAND USE PLANNING HANDBOOK**B. Why incorporating social science considerations into the planning process is important.**

The BLM is required by statute and executive order to consider social science information when preparing a land use plan. The BLM is also required to manage the public lands on the basis of multiple use and sustained yield and to meet the needs of present and future generations. These needs include environmental protection in relation to human occupancy and other uses that may conflict or create conflicting demands. As the human population continues to increase and social values continue to evolve, resource conflicts are expected to increase. More importantly, the American public is increasingly aware of the importance of the public lands to its well-being and is demanding a larger voice in resource management decisions. Given these realities, the planning process can represent a constant balancing act between competing interests.

C. Incorporating social science information into land use planning.

To incorporate social science assessment into the land use planning process, BLM should consider the following factors:

1. **Scale.** It is important to tailor the analysis to the scale of the planning effort. For example, a broad-based regional programmatic plan would likely focus on the assessment of communities within and near the planning region as well as an examination of national-scale public land priorities; this type of plan could use social science information from a large area to establish large-scale socioeconomic patterns and trends. A single RMP, on the other hand, may focus on a much smaller area and include a more detailed analysis for each community. At the implementation plan level, the analysis would focus on more site-specific information, such as the groups or individuals affected by the decision under consideration.
2. **Types of Analysis.** There are many analytical methods, tools, guidelines, and procedures that can be applied in assessing social science considerations for land use planning:
 - a. Social science information can be presented in terms of *current conditions and trends* (this type of analysis is similar to that done for other types of resources; for example, wildlife, vegetation, etc.). Trend analysis may include historic trends as well as projections of future trends. This type of information is important for understanding the social context within which land use decisions will be made and in ascertaining how these decisions will affect communities and individuals in and near the planning area, as well as concerned groups and individuals at the regional and national level. Any social science information collected should be directly tied to the resource issues being addressed in the planning effort and should provide the decision maker with information on the social and economic climate of the planning area.

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- b. *Impact analysis* is usually the next step after assessing current conditions and trends. The purpose of impact analysis is to assess the social and economic consequences of implementing the various alternatives identified in the planning process. The types of information that could be collected may vary from region to region. Any information that might provide insight into a community's structure or make-up would be considered valuable from a land use planning perspective. This information would in most instances come from secondary sources, but BLM may need to consider collecting information itself if no secondary information is available. As with all data collection efforts, undertaking a social and economic inventory should be done in accordance with available resources/budgets, only to the extent needed for the planning effort at hand, and in conformance with Federal law.
- c. *Social science elements* to consider when assessing current conditions, trends, and impacts can include:
- (1) *demographic*: examples include population size and characteristics.
 - (2) *economic*: examples include income and employment for various economic sectors and population groups; community infrastructure (e.g. roads, schools, medical and police services, etc.); and economic values for nonmarket resources.
 - (3) *social*: examples include community, regional, and/or national social values, beliefs, and attitudes; cultural practices, traditions, organization, and structure; and sense-of-place issues.
 - (4) *fiscal*: examples include State and local revenues and expenditures.
 - (5) *land use patterns*: examples include agricultural, commercial, and residential land uses, and rate of conversion from one land use to another.

It is important to tailor social science considerations to the issues identified through scoping and to choose the appropriate elements for each planning exercise.

3. **Timing.** Timing refers to different stages in the planning process where social science information and analysis may be useful to the decision-maker and the public, including scoping and issue identification; assessment of past, current, and future conditions; and identification of impacts and mitigation. Social science information may need to be adapted to the different stages of the planning effort as planning proceeds. Information should be gathered early enough to be included throughout the discussion and decision-making phases of the planning effort.

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4. **Applying social science to the land use planning effort.** Social science information can help identify areas where resource uses conflict and where resources may be misallocated. As noted above, BLM is mandated to consider social science data as one aspect of its planning process. BLM land use plans currently in effect have varying degrees of social science analysis, from comprehensive to very little. However some plans that are currently underway or recently completed have included social science information in ways that are innovative as well as appropriate. Managers and land use planners are encouraged to find and review recent plans that have covered issues similar to the issues they are addressing as they begin social and economic studies for new efforts.

5. **Sources of data.** There are numerous sources of data available at the national, State, and local levels from government, university and private sources. Much of the government data is easily available online. Literature searches can also provide sources of information that may not be available in other ways. The type of data collected and analyzed should be appropriate to the planning scale and the issues identified through the scoping process.

D. References.

The following references are provided as potential sources for social and economic information. Data and information from these and other sources must be used within the context of the laws governing BLM's management of the public lands.

The Federal Interagency Council on Statistical Policy. Fedstats Website:

<http://www.fedstats.gov/>. This website provides access to a wide variety of data produced by over 70 Federal agencies for public use. It provides access to statistics for demographics, economics, natural resources, the environment, energy, health, education, and many other areas. Much of this data is available at the county, State, and/or regional level.

U.S. Department of Agriculture (U.S.D.A.), Forest Service. Human Dimensions Website:

<http://www.fs.fed.us/emc/nris/hd/>. This website contains much useful information about human dimensions analysis and includes sites from which economic and demographic data can be downloaded.

U.S. Department of Commerce, Bureau of the Census. Census data includes the economic characteristics of cities, towns, counties, and States, as well as a wide variety of social and demographic information such as population, age, and migration rates. The Census Bureau also presents information on county governments including financial characteristics (Website: <http://www.census.gov>).

-----, *Bureau of Economic Analysis.* Includes data for States, counties, and economic regions for such factors as personal income and employment by industry, gross state product, and more (Website: <http://www.bea.doc.gov/>).

U.S. Department of Labor, Bureau of Labor Statistics. This Federal agency collects and reports

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data on the labor market, including labor trends, detailed information on employment by industry, and unemployment rates. It also reports price indices such as the consumer price index and the producer price index (Website: <http://www.stats.bls.gov>).

U.S. Department of the Interior, BLM. The BLM collects data on a wide variety of commercial uses of public lands. This data is useful for putting public land uses in the context of overall use in a planning area. Examples of the data collected include grazing use, mining, timber product sales, coal, oil and gas leases, recreation, rights of way, and payments-in-lieu-of-taxes (PILT). To obtain this data, contact resource specialists for those uses or refer to BLM's annual Public Land Statistics publication.

Local sources of data. There are many local government agencies and organizations that collect data that can be useful in land use planning. Such sources of data include State and local employment departments, city and county governments (e.g., building departments, departments of motor vehicles, or county tax assessors), local and State Chambers of Commerce, local and State economic development commissions, etc.

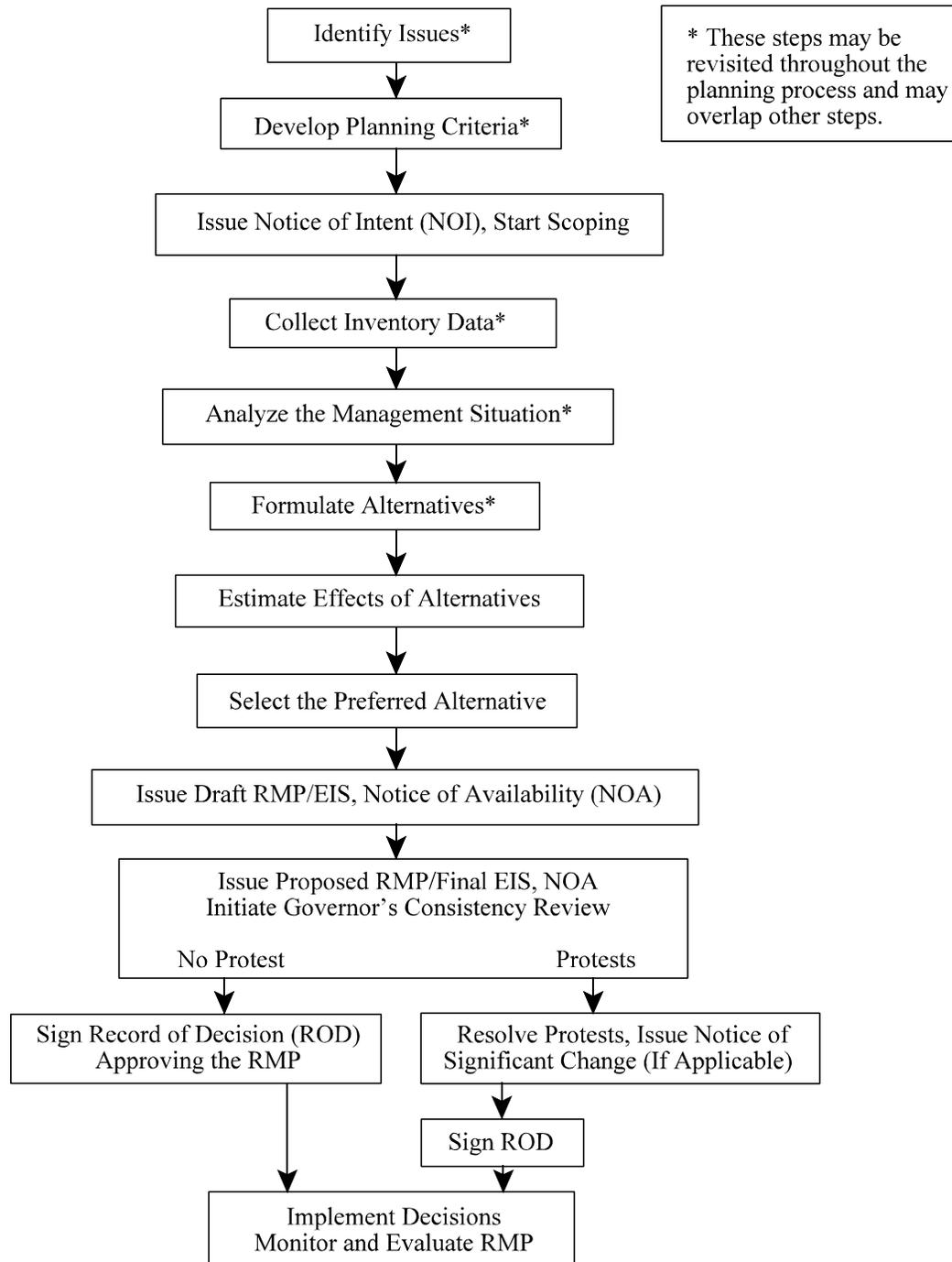
Resource-specific sources of data. There are many State and Federal agencies that collect and report data on specific industries, such as agriculture (farming and ranching), mining, forestry, and recreation. For agricultural data, the *USDA Economic Research Service* (Website: <http://www.econ.ag.gov>) and the *National Agricultural Statistics Service* (Website: <http://www.usda.gov/nass/>) are two good sources of information. The Economic Research Service also conducts studies on rural conditions and trends.

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**Appendix E: Overview of the RMP Process
An Overview of the RMP/EIS Level Planning Process**

The following chart depicts the planning requirements as well as the NEPA documentation requirements for the EIS-level planning process. (See next page for an explanation of each step). This process is used for new RMPs, Plan revisions, and EIS-level plan amendments. (See Page E-4 for EA-level plan amendments.)



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RMP/EIS Level Planning Process Steps

Identify Issues*: Identify issues or land use problems that need to be resolved. This is an ongoing process that ties to the NEPA scoping process.

Develop Planning Criteria*: Planning criteria establish constraints and guides for the planning process; streamline the process; establish standards, rules, and measures; set the scope of inventory and data collection; identify the range of alternatives; and estimate the extent of analysis. Preliminary planning criteria developed by BLM can be modified through public comment.

Issue Notice of Intent (NOI)/Scoping*: Publish the NOI in the *Federal Register*, local media, mailings, etc. The NOI identifies the preliminary issues and planning criteria and provides for a 30-day public review and comment period. This is also the start of the formal NEPA scoping process inviting the public to identify issues or land use problems that need to be resolved. In addition to the *Federal Register* notice, solicit ideas through mailings, newspaper articles, public meetings, and workshops. Gather, screen, and evaluate ideas from public, private, and internal sources. Summarize the issues to guide the planning process.

Collect Inventory Data*: Collect inventory data based on the planning criteria. Data are generally collected from existing sources. New data collection is limited to what is needed to resolve the planning issues identified.

Analyze the Management Situation*: Gather information on the current management situation, describe pertinent physical and biological characteristics, and evaluate the capability and condition of the resources. This analysis provides a reference for developing and evaluating alternatives.

Formulate Alternatives*: Identify a range of reasonable combinations of resource uses and management practices. Develop reasonable alternatives that address issues identified during scoping and that offer a distinct choice among potential management strategies. Include a no action alternative.

Estimate Effects of Alternatives: Estimate the impacts of each alternative on the environment and management situation.

Select the Preferred Alternative: The Field Manager and District Manager recommend to the State Director a preferred alternative that best resolves planning issues and promotes balanced multiple use objectives. The State Director approves the selection of the preferred alternative along with the other alternatives under consideration.

Issue Draft RMP/EIS: Publish the Notice of Availability (NOA) in the *Federal Register*, media, mailings, etc. The NOA notifies the public of the availability of the Draft RMP/EIS and provides for a 90-day public review and comment period.

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Issue Proposed RMP/EIS: Evaluate comments and make any modifications needed. Publish a second NOA and file a copy of the Proposed RMP/EIS Proposed Decision with the EPA. This initiates the 30-day protest period under 43 CFR 1610.5-2.

Governor's Consistency Review: Simultaneously initiate a 60-day Governor's review to identify inconsistencies with State or local plans.

Protests: See the procedure outlined in Appendix F. The State Director may sign and implement that portion of the plan not under protest.

Notice of Significant Change: When a protest period or consistency review results in significant changes to the proposed plan, issue a Notice of Significant Change providing an additional 30-day comment period.

Plan Approval: Once protests have been resolved and the Governor's consistency review has been completed, the State Director approves the RMP by signing the Record of Decision (ROD).

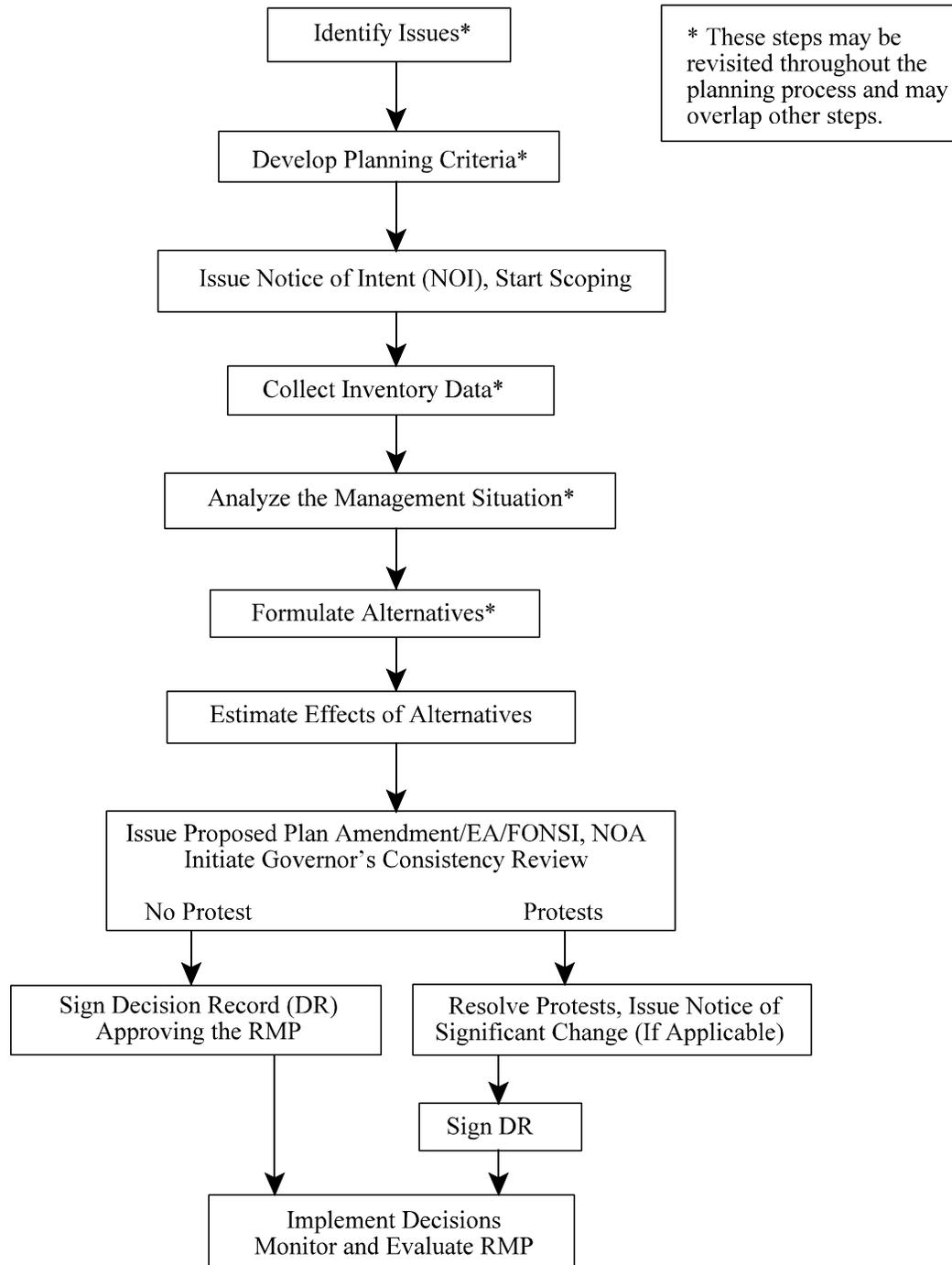
Monitor and Evaluate the RMP: Ensure that the plan is continually monitored and evaluated until it is replaced.

* These steps may be revisited throughout the planning process and may overlap other steps.

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An Overview of the RMP/EA-Level Plan Amendment Process

The following chart depicts the planning requirements as well as the NEPA documentation requirements for the EA-level plan amendment process.



H-1601-1 LAND USE PLANNING HANDBOOK**Appendix F
Summary of Protest and Appeal Provisions****I. Land Use Plan Protests.**

The protest procedures in 43 CFR 1610.5-2 allow the public an opportunity to administratively review BLM's proposed land use plan decisions after BLM has issued a Proposed Plan/Amendment and Final EIS.

A. How does the process start?

The protest process starts when a person with standing (see I.C. below) files a protest of a proposed RMP or plan amendment decision to the BLM Director within the required time frames (see I. D. (1) and (2) below).

Protests allowed under the regulations for several resource programs (e.g., livestock grazing, lands, forestry, and mining) or for certain implementation decisions are different from land use plan protests (see section II. below).

B. What is protestable?

A proposed decision in an RMP, plan revision, or plan amendment that may adversely affect an individual or group is protestable.

C. Who has standing to protest?

1. Any participant in the planning process who has an interest that is or may be adversely affected may file a protest. (See 43 CFR 1610.5-2 (a).) The Director has traditionally interpreted this requirement to allow any level of participation, consistent with 43 CFR 1610.5-2 (a) (2) (iv).
2. The protester may raise only issues submitted for the record during the planning process. These issues could have been raised by the protester or by others. No new issues may be brought into the record at the protest stage. (See 43 CFR 1610.5-2 (a) (2) (iv).)

D. What is the protest procedure?

1. For proposed decisions in an RMP or plan amendment requiring an EIS, a letter of protest must be filed with the BLM Director within 30 days of EPA's NOA of the published Proposed RMP/Final EIS or Proposed Amendment/Final EIS in the *Federal Register* (see 43 CFR 1610.5-2 (a) (1)).

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2. For proposed decisions in a plan amendment supportable by an EA, a letter of protest to the BLM Director must be filed within 30 days of the BLM's published NOA of the proposed Amendment/EA/FONSI. Since the publication date of the NOA is key, it should be published in either the *Federal Register* or a local newspaper, using a paid advertisement if necessary. (See 43 CFR 1610.5-2 (a) (1).)
3. Letters of protest must fulfill the content requirements established in 43 CFR 1610.5-2 (a) (2). The protest must be in writing and contain:
 - a. The name, mailing address, phone number, and interest of the person filing the protest.
 - b. A statement of the part or parts of the plan and the issues being protested.
 - c. A copy of all documents addressing the issue(s) that the protesting party submitted during the planning process or a statement of the date they were discussed for the record.
 - d. A concise statement explaining why the protestor believes the State Director's decision is wrong.
4. The BLM will not grant an extension of time to protest because the regulations in 43 CFR 1610.5-2 (a) (1) state that protests must be filed within 30 days.

E. How are protests resolved?

1. Once the BLM Director receives a timely filed protest, the Director asks the State Director to prepare and submit a response file consisting of a State Director Protest Report with draft response letters. The BLM Director then decides how to resolve the protest based on two factors, in this order:
 - a. The standing of the protester. (See 43 CFR 1610.5-2 (a).)
 - b. The merits of the protest. The Director will determine whether the BLM followed established procedure, considered relevant information in reaching a decision, and whether the proposed decision is consistent with BLM policy.
2. Once a determination is made that protesters meet the requirements of 43 CFR 1610.5-2, mediation may be offered. This should be considered and discussed with the Solicitor's Office, Natural Resource ADR Specialists, and the State and Washington Offices for concurrence before initiating the mediation process.

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3. The results of an administrative review of a protest is a decision by the BLM Director that may either dismiss a protest, without ruling on the merits of the filing; deny, in whole or in part, a protest; return, in whole or in part, the RMP or plan amendment to the appropriate State Director for clarification or for further planning or consideration; or change, in whole or in part, the proposed management decisions in the proposed RMP.
4. The BLM Director will uphold a protest when one of the following situations exists: approval of the proposed plan or amendment would be contrary to the Director's policy guidance; significant aspects of the proposed plan or amendment are based upon invalid or incomplete information; and/or the proposed plan or amendment does not comply with applicable laws, regulations, policies, and planning procedures (43 CFR 1600).
5. Once a protest is resolved, the decision of the BLM Director is the final decision of the Department of the Interior and therefore cannot be appealed to the IBLA. (See 43 CFR 1610.5-2 (a) (3) (b).)

F. How will the BLM implement a land use plan or plan amendment under protest?

1. The BLM withholds approval and implementation on any protested portion of a plan or plan amendment until the protest process has been completed. Portions of the land use plan or plan amendment not being protested may be approved and implemented (see 43 CFR 1610.5-1 (b)).
2. Before the BLM approves a plan that has been significantly changed following a protest, the State Director will publish a notice providing opportunity for a 30-day public comment on any significant change in the proposed plan (see 43 CFR 1610.5-1 (b)). The BLM Director determines what constitutes a significant change. Comments on the significant change must be directed to the State Director, who will address any comments. The State Director must document approval of the plan or amendment in a concise public record of the decision, thereby meeting the requirements of the CEQ regulations implementing NEPA (see 40 CFR 1505.2).

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II. Governor's Consistency Review Appeal Process

The planning regulations in 43 CFR 1610.3-2(e) allow a State Governor an opportunity to appeal to the BLM Director if the BLM State Director does not accept the Governor's recommendations on plan consistency.

Prior to approval of a proposed plan, revision, or amendment, the BLM State Director submits the proposed plan, revision, or amendment to the Governor(s) of the State(s) involved and identifies any known inconsistencies with approved State or local plans, policies, or programs. The Governor has 60 days to identify inconsistencies and to provide written recommendations to the BLM State Director. If the BLM State Director does not accept a Governor's recommendations, the BLM State Director must notify the Governor in writing; the Governor then has 30 days in which to submit a written appeal to the BLM Director.

The BLM Director will accept the Governor's recommendations if the Director determines that the recommendations provide for a reasonable balance between the national interest and the State's interest. The Director must communicate to the Governor in writing and publish in the *Federal Register* the reasons for accepting or rejecting the Governor's recommendations.

III. Appeals of Implementation Decisions.

Implementation decisions are generally appealable to the IBLA (see 43 CFR 4). Some program-specific guidance provides for a protest process prior to issuance of a final decision and the subsequent appeal process (see 43 CFR 4160 and 43 CFR 5003).

A. What is an appeal?

An appeal is an opportunity for a qualified party to obtain a review of a BLM decision by an independent board of Administrative Judges within the Department's Office of Hearings and Appeals.

B. What is appealable?

Most of the BLM decisions that implement provisions of the land use plan may be appealed to IBLA. Exceptions include, but are not limited to, decisions approved by the Secretary (or by an Assistant Secretary) and classification decisions made under 43 CFR 2400. Decisions that may be appealed to IBLA, but are not directly appealable to IBLA, include locatable mineral decisions under 43 CFR 3809 (an adversely affected operator must first appeal to the State Director); certain decisions that first must be appealed to an administrative law judge under 43 CFR 4100 and 43 CFR 4.470, such as those relating to livestock grazing; and fluid minerals State Director reviews under 43 CFR 3165.3. A decision of an administrative law judge may be appealed to the IBLA by an adversely affected party, including a BLM State Director (see 43 CFR 4.476).

C. Who can appeal?

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Any party to a case who is adversely affected by one of the BLM's decisions has the right to appeal to the IBLA. (See 43 CFR 4.410 (a).)

D. What is the appeal procedure?

1. Upon issuing of an implementation decision, the BLM should serve the decision to the applicant and other potentially affected interests. The decision may also be published in the *Federal Register*.

A person served with the decision who wishes to appeal must transmit a **Notice of Appeal** in time for it to be filed where it is required to be filed within 30 days after the date of service. If a decision is published in the *Federal Register*, a person not served with the decision must transmit a Notice of Appeal in time for it to be filed within 30 days after the date of publication (see 43 CFR 4.411 (a)). A copy of the Notice of Appeal must be filed with the Regional or Field Solicitor.

The Notice of Appeal must give the serial number or other identification of the case. The adversely affected party may include a statement of reasons for appealing (see 43 CFR 4.411 (b)). The regulations do not grant an extension of time for filing the Notice of Appeal (see 43 CFR 4.411 (c)), but there is a discretionary grace period of 10 days for documents, such as a Notice of Appeal, that are transmitted in a timely manner. (43 CFR 4.401 (a)).

2. If the appellant did not state the reasons for the appeal in the Notice of Appeal, a **Statement of Reasons**, including a statement of standing, if required by 43 CFR 4.412 (b), must be filed with the IBLA within 30 days after the Notice of Appeal was filed. Extensions of time are often granted for this purpose. Within 15 days after each document is filed, the appellant must file a copy with the appropriate Office of the Solicitor and any adverse parties named in the decision being appealed. (See 43 CFR 4.413.)
3. Within 15 days after the Statement of Reasons is filed with the Solicitor and adverse parties, the appellant must file proof of that service with IBLA (see 43 CFR 4.413 (d)).
4. Once a Notice of Appeal is filed, the BLM case file should be expeditiously transmitted to the IBLA. Refer to program-specific guidance for more detailed procedures related to processing an appeal.

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E. What factors does IBLA consider in accepting an appeal?

1. Was the Notice of Appeal filed in a timely manner with the proper office?
(43 CFR 4.411 (a))
2. Is the appellant a party to the case and adversely affected by the decision being appealed? (43 CFR 4.410 (a))

F. What factors decide the merits of the appeal?

The IBLA must decide whether the BLM followed applicable laws and regulations, adhered to established policies and procedures, and considered relevant information in reaching a decision.

G. Implementation of an appealed decision

See 43 CFR 4.21 for a discussion of the effect of a decision pending appeal. Except as otherwise provided by law or other pertinent regulation:

1. A decision will not be effective or implemented during the 30-day appeal period, but IBLA or the Director of the Office of Hearings and Appeals can put the decision into full force and effect immediately when the public interest requires (see 43 CFR 4.21 (a)(1)).
2. A decision becomes effective on the day after the expiration of the 30-day appeal period, unless a petition for a stay is filed together with a timely notice of appeal. A petition for a stay may be filed only by a party who has standing to appeal (see 43 CFR 4.21 (a)(2). Also see program-specific regulations for requirements for a petition for a stay and 43 CFR 4.21 (b).
3. A decision, or portion of a decision, for which a petition for stay is filed with IBLA is effective if:
 - a. The IBLA denies or partially denies the petition for a stay, or
 - b. The IBLA fails to act on the petition within 45 calendar days after the expiration of the 30-day appeal period (see 43 CFR 4.21 (a) (3)).

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Appendix G

Memorandum of Agreement - Endangered Species Act Consultation and Coordination

August 30, 2000

MEMORANDUM OF AGREEMENT

**ENDANGERED SPECIES ACT
SECTION 7 PROGRAMMATIC CONSULTATIONS
AND COORDINATION**

among

**BUREAU OF LAND MANAGEMENT,
FOREST SERVICE,
NATIONAL MARINE FISHERIES SERVICE
and
FISH AND WILDLIFE SERVICE**

Goal

The goal of the Memorandum of Agreement (MOA) is to improve the efficiency and effectiveness of plan and programmatic level section 7 consultation processes under the Endangered Species Act, and enhance conservation of imperiled species while delivering appropriate goods and services provided by lands and resources managed by the signatory agencies.

Purpose

The purpose of this interagency Memorandum of Agreement (MOA) is to establish a general framework for a “streamlined” (i.e., easier and more effective) process for interagency cooperation among the Bureau of Land Management (BLM), U.S. Forest Service (FS), U.S. Fish and Wildlife Service (FWS), and National Marine Fisheries Service (NMFS) in the exercise of their responsibilities under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531-1544) and the 1994 Memorandum of Understanding on the conservation of species which are tending towards federal listing (94-SMU-058), which all four agencies signed. In particular, this MOA outlines guidance and procedures for section 7 consultations as well as consideration of candidate species conservation in land management plans and other programmatic level proposals prepared by the BLM and FS. The guidance and procedures outlined in this MOA will enhance existing procedures for conducting section 7 consultations. Nothing in this MOA is intended to amend 50 CFR part 402. This streamlined process will provide a number of efficiencies, allowing the agencies to better achieve compliance with the ESA and the regulations at 50 CFR part 402 without altering or diminishing the agencies’ existing responsibilities under the ESA or its regulations. Although consultation already occurs on land management plans and

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site-specific land management activities, guidance is needed to ensure consistency and efficiency. The result will be increased up-front coordination on biological assessments including conservation measures for candidate, proposed, and listed species and proposed and designated critical habitat. It will also result in a shortened time frame for the appropriate consultation response (a goal of 30 days or less for concurrence letters and 90 days or less to complete formal consultation) once an agreed to biological assessment has been received by the FWS or NMFS. This agreement in no way alters the commitment of the action agencies to consult at the site-specific level.

The term “action” as used in section 7 of the ESA includes land use plans under the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*) and resource management plans under the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 *et seq.*) as amended by the Forest Management Act (16 U.S.C. 1600 *et seq.*).

The BLM and FS (action agencies) will consult and confer, as outlined in the following sections, on land management plans, both during development of a new, amended, or revised plan, and on an existing plan if a new species is listed or critical habitat designated, or significant new information becomes available, and, where appropriate, consult on other programmatic level proposals (e.g., recreation program, grazing program, riparian strategy), habitat management plans, multi-year projects aggregated as a program, grouped permits or activities, or plan objectives, standards and guidelines, such as the Pacific Anadromous Fish Strategy (PACFISH) interim standards and guidelines. The action agencies also agree to include candidate species in biological assessments/evaluations provided during the plan consultation/conference process.

The BLM, FS, FWS, and NMFS agree to promote the conservation of candidate, proposed, and listed species and to informally and formally consult/confer as specified in 50 CFR 402 on listed and proposed species, and designated and proposed critical habitat during planning: (1) To assure that activities implemented under these plans minimize or avoid adverse impacts to such species and any critical habitat; (2) to assure that such activities implemented under these plans do not preclude future conservation opportunities; (3) to use, where possible, formal conference procedures specified in 50 CFR 402 to avoid conflicts between elements contained in plans and the requirements for conservation of proposed species and proposed critical habitat; and (4) to analyze the effects of the plan on candidate species pursuant to agency planning regulations.

This MOA establishes interagency commitment to and guidance for the following: (1) Early interagency communication, coordination, consultation, and conferencing on candidate, proposed, and listed species to take place prior to and during plan/program proposal development; (2) consultations/conferencing on land management plan adoption, revision, amendment and on ongoing plans where reinitiation is required; (3) implementation guidance for plan and programmatic level consultation; (4) efficiency through a consistent programmatic interagency cooperative consultation process; (5) ensuring that ongoing activities do not jeopardize listed species, result in the destruction/adverse modification of designated critical habitat, or result in unauthorized take during consultations on an existing land management plan; and (6) consulting or conferencing on both land management plans and other programmatic level proposals for species listed or critical habitat designated since the adoption of a plan.

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As part of their land management planning processes, the FS prepares Land and Resource Management Plans and the BLM prepares Resource Management Plans and, in the past, has also prepared Management Framework Plans (hereinafter, these plans will be collectively called "plans"). Plans identify general land-use purposes or allocations; future conditions that are desired on specific lands; goals and objectives for resource conditions on specific lands; and standards, guidelines, or other mechanisms that establish the management framework for all the activities conducted and allowed on lands managed by these agencies. Plans are developed over a period of several years and site-specific management actions are developed and carried out to implement the plan.

Because a plan does not normally prescribe the specific timing and location of expected land management activities, there is a significant level of uncertainty associated with the potential environmental consequences of plans. This uncertainty extends to effects on candidate, proposed, endangered and threatened species and designated critical habitat. Although the precise location and timing of site-specific effects of management actions and land uses are not often known when a plan is adopted, amended, or revised, BLM and FS, by signing this MOA, agree to consult with FWS and NMFS so that future activities formulated and allowed under the parameters of the plan are not likely to jeopardize the continued existence of listed species or result in the destruction/adverse modification of designated critical habitat. Additionally, because of the conservation mandate of section 7(a)(1) of the ESA, plans can be very helpful in recovery of listed species. The action agencies, by signing this agreement, affirm that planning for conservation of candidate, proposed, and listed species is key to the accomplishment of the federal land stewardship role. Successful implementation of this MOA will enhance plans and programmatic level proposals by promoting the incorporation of conservation objectives and guidelines for proposed and listed species.

Plans may be operational for a period covering many years, new species may be added to the list of threatened and endangered species, or significant new information may become available, triggering reinitiation of formal consultation and the need for reevaluation of the effects of plan implementation on listed or proposed species, and on designated or proposed critical habitat. This provides an additional impetus to cooperate under this MOA.

Under new FWS guidance issued on December 5, 1996 (61 FR 64481), candidate species are those species for which FWS has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule to list, but issuance of the proposed rule is precluded by higher listing priorities. NMFS also maintains a list of candidate species that are being considered for listing. Since it is highly likely that most candidate species will become proposed and/or listed during the life span of the plan or program under consultation, it is prudent to receive conservation recommendations for candidates to use in the development of alternatives during the NEPA process or programmatic level consultations. These recommendations for candidate species will facilitate development of objectives, standards and guidelines, or conservation measures at the plan/programmatic level which can help streamline future project level conferences/consultations for these species when they acquire formal

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protection under the ESA. In some cases this early coordination may avoid the need to list the species.

Scope

The scope of this MOA includes Land and Resource Management Plans prepared by the FS pursuant to the National Forest Management Act of 1976 [16 U.S.C. 1601-1614] and Resource Management Plans and Management Framework Plans prepared by the BLM pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701-1784]. The MOA may also be applied to other programmatic level proposals. These may include, but are not limited to, a recreation or grazing program, riparian restoration strategy, multi-year forest management activities, recovery strategy or other proposals.

Elements of plans that will undergo section 7 consultation/conference pursuant to this MOA include:

1. Management goals, objectives, standards, and guidelines;
2. Designation of special management areas, management area direction and prescriptions, and designation of allowable resource uses;
3. Broad-scale monitoring and evaluation requirements for listed, proposed, and other species of concern; and
4. Site-specific or forest-wide management decisions included in the plan and/or Record of Decision.

Consultation Procedures

Action and consulting agencies agree to maintain and exchange information on (1) the biology, ecology, distribution, and abundance of threatened, endangered, proposed, and candidate species and proposed and designated critical habitat and (2) planning schedules, status, and priorities for the land management activities. Successful implementation of this MOA depends on full cooperation and coordination. The BLM and FS should have access to FWS and NMFS candidate species lists, proposals to list species as threatened or endangered, proposals to designate critical habitat, and recovery planning documents. Regular exchanges of information examining the status, biology, and ecology of listed species and their habitat needs should occur. Similarly, BLM and FS will coordinate with FWS and/or NMFS on planning schedules and priorities that will require a commitment of FWS and/or NMFS staff resources.

Coordination and consultation early in the planning process will result in the identification of potential impacts to species and critical habitat, allowing resource managers to make appropriate adjustments. This early cooperation will help to ensure that species conservation is achieved with a minimum of adverse impacts on proposed activities. When plans or programs that may affect listed species and/or designated critical habitat involves more than one planning area, it

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may be more efficient to consult on ecosystem level strategies, species range wide, or species-specific strategies under the jurisdiction of all the agencies rather than on individual plans or site-specific activities. The agencies may agree to address multiple plans as one consultation package.

Action agencies will make a determination of effects through a biological assessment/evaluation of the plan, the adequacy of conservation measures, and the effects of the land-use allocation and management direction on listed, proposed, and, as appropriate, candidate species and proposed or designated critical habitat. This assessment will determine whether consultation is needed, and if needed, whether informal or formal consultation or conference is appropriate.

Action agencies will include appropriate protection and conservation elements for listed, proposed, and candidate species and proposed or designated critical habitat in land use plans, habitat management plans, or in interim standards and guidelines that are consistent with land use plans.

Consideration of these conservation elements will help resource managers improve beneficial effects and avoid and minimize adverse effects at subsequent planning and project levels. Projects that conform to the protection and conservation elements (such as standards and guidelines) developed through programmatic consultation are likely to receive a “not likely to adversely affect” determination and concurrence or, at a minimum, an expedited Biological Opinion from the consulting agency, in the absence of new information that would change the environmental baseline or effects determination, or other changed circumstances.

Action agencies will review all scientific and other information used in the planning process to ensure that it is reliable, credible, and represents the best scientific and commercial data available. Sources of biological data will include, but are not limited to, recovery plans, conservation assessments, conservation strategies, conservation agreements, and scientific documents. This reflects the policy stated in 59 FR 34271 (July 1, 1994).

Action agencies will follow, where appropriate, the conference process for candidate species when standards and guidelines for candidate species conservation are included in programmatic documents. Inclusion of candidate species recognizes that there is tremendous benefit in early coordination between the agencies, saving time, effort and money. If, or when, the species is listed, informal conferencing on candidate species and formal conferencing on proposed species or on proposed critical habitat accomplishes the following objectives: (1) Identifies plan elements or ongoing activities that, if implemented, could adversely affect species when listed or critical habitat when designated; (2) provides the opportunity to modify the plan elements and/or ongoing activities to remove the adverse effects and thus reduce the likelihood that future activities would be in conflict with the ESA after a species is listed; (3) identifies plan elements that benefit/promote the conservation of proposed or candidate species or proposed critical habitat; and, (4) if done under formal conference procedures, provides a conference opinion for proposed species that can be confirmed as a biological opinion once the species is listed; and (5) identifies measures to help avoid a jeopardy determination.

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Following the procedures and measures prescribed by this MOA will promote the conservation of species, and should result in minimizing incidental take of listed species as a result of implementing a planned activity. Incidental take statements must be issued for any action for which such take is anticipated. When sufficient information is available to anticipate the amount or extent of take incidental to plan or program implementation, the provisions of sections 7(b)(4) and 7(o)(2) (exemptions from takings) will apply to consultations conducted on a plan or programmatic level proposal. If incidental take is not anticipated for the activities implementing a plan or programmatic level proposal, an incidental take statement will state that conclusion. Subsequent "tiered" consultations performed on individual project activities, groups of similar projects, or annual programs, where specific effects on species can be determined within the context of a local geographic area, will contain incidental take statements identifying the anticipated amount of incidental take from the site-specific action under consultation.

When action agencies formally consult on existing plans they are required to ensure that any ongoing activities, including site-specific activities, resulting from or consistent with plans, do not result in any irreversible or irretrievable commitment of resources that have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives that could result from the programmatic consultation. This will be accomplished by conducting early and complete agency collaboration, followed by a timely and coordinated consultation process.

Compliance with section 7(d) of the ESA will be assured at the plan level because the agencies agree to conference on a plan as soon as a species is proposed for listing. If the conference opinion adequately addresses plan level effects and the conservation of the species, then the conference opinion should allow for an easy conversion to a biological opinion or concurrence when the species is listed. Absent any change in circumstances, no further consultation would be required. Furthermore, the action agencies will implement a logical and documented process to jointly "screen" site-specific projects prior to reinitiation of plan consultations following a new listing (if conferencing has not been completed). The screening process should identify any projects which could result in an irreversible or irretrievable commitment of resources that might foreclose the formulation or implementation of reasonable and prudent alternatives to avoid jeopardy. These projects will be modified, suspended, or halted during the programmatic consultation. The final determination of section 7(d) compliance will be the action agency's responsibility, but it is expected that close coordination with the consulting agencies will occur.

H-1601-1 LAND USE PLANNING HANDBOOK**Procedural Guidance**

Attached is implementation guidance for carrying out consultations at the plan and programmatic level. The agencies agree to use this guidance when implementing the terms of this memorandum. From time to time, the agencies may find it necessary or advisable to alter the procedures described in the attachment; if this occurs, a revised procedural guidance reflecting changes agreed to by the agencies may be issued with the approval of the heads of the four agencies.

This MOA and guidance does not supersede or preclude the use of the May 31, 1995, interagency agreement for streamlining section 7 consultation in the Pacific Northwest. Nothing in this MOA constrains the obligations of the agencies in carrying out their authorities under applicable laws. There is no effect on non-federal interests.

Authority

Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544)
National Forest Management Act of 1976 (16 U.S.C. 1601-1614)
Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-1784)
MOU on the conservation of species that are tending towards federal listing (94-SMU-058),
January 25, 1994

Funding and Resources

Nothing in this MOA shall be construed as obligating any of the parties to the expenditure of funds in excess of appropriations authorized by law. It is understood that the level of resources to be expended under this MOA will be consistent with the level of resources available to the agencies to support such efforts.

Effective Date

This MOA is effective immediately. Its provisions will remain in effect until it is amended, superseded, or revoked, whichever occurs first.

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**INTERAGENCY MEMORANDUM OF AGREEMENT FOR
PROGRAMMATIC ENDANGERED SPECIES ACT SECTION 7 CONSULTATIONS**

/s/ Tom Fry, 10/13/99

Director, Bureau of Land Management

/s/ Jamie Rappaport Clark, 10/12/99

Director, U.S. Fish and Wildlife Service

/s/ Mike Dombeck, 9/07/99

Chief, U.S. Forest Service

/s/ Alan Risenhoover, 9/30/00

for Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration

H-1601-1 LAND USE PLANNING HANDBOOK**Implementation Guidance: Streamlining Programmatic Consultation
for BLM/FS Land Use Plans and Programs****I. Introduction**

This document specifies the level of management commitment, direction, and support, and identifies the critical elements necessary for successful implementation of the streamlined process of ESA section 7 consultation on land-use plans and their programs as established in the July 27, 1999, MOA by the BLM, FS, NMFS and FWS. Implementation of the following critical elements should help achieve this goal:

- introduction of the process through interagency workshops
- development of consultation outlines to address specific consultation streamlining needs
- early coordination between the land management and consulting agencies when entering into the consultation process
- establishment of a dispute resolution process
- establishment of procedures to evaluate and refine the process

The agencies will ensure these critical elements are met. However, this process is designed to recognize the inherent flexibility and adaptive approach necessary to meet the critical elements that will enhance the consultation/conference process while simultaneously meeting area-specific needs.

II. Overall Approach

The specific intent of streamlined consultation procedures and guidance is two fold:

- 1) To further the conservation of listed, proposed, and candidate species by utilizing applicable plans and guidance to provide increased beneficial effects, avoid or minimize adverse effects and reduce levels of incidental take; and
- 2) to enable the section 7 process, including review, analysis and documentation, to proceed as quickly and efficiently as possible.

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The streamlined consultation process involves three basic phases:

Phase 1: Interagency participation in early planning, program guidance meetings, and the review of preliminary determinations of effect.

Phase 2: Preparation of biological assessments (BAs) or biological evaluations (BEs) by the action agencies using the working group, technical support group, and if necessary, issue resolution team.

Phase 3: Preparation of biological opinions (BOs) or concurrence letters by the consulting agencies.

III. Workshops

The agencies will provide interagency workshop opportunities to guide streamlining consultation efforts. The workshops will be tailored to each region, highlighting national as well as local issues, and designed to provide guidance and recommendations for improving consultation, coordination, and interagency working relationships.

Workshops will emphasize the benefits and process necessary for implementing improved consultation and enhanced working relationships between the consulting and action agencies. These workshops will be scheduled for biologists/botanists, line officers, and related planning and resources staff who are regularly involved in completing the interagency consultation process. It is expected that within one year of implementation of the MOA all regions will complete workshops.

Workshops will be conducted by cadres of biologists and land managers with expert knowledge in section 7 consultation efforts.

IV. Management Support and Direction: Development of a Consultation Agreement

To accomplish the objectives described in the MOA, the action agencies and consulting agencies agree to develop and apply consultation agreements for programmatic consultations conducted under this guidance that do the following:

- Determine the scope of the planned action, the appropriate level of signature authority (REGION, FOREST, AREA) and scale of analysis necessary to accomplish programmatic consultation.
- Designate staff and responsibilities
- Determine the necessary time frames

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- Initiate early interagency staff coordination
- Establish a dispute resolution process in keeping with that outlined above

An example is attached.

V. Scope

The action agencies will clarify the priority list of activities to be covered in the consultation effort. They should identify, for instance, which actions or plans, which administrative units or geographic areas, and suggest which species or critical habitats must be covered within the designated time frame, as well as any other appropriate issues.

VI. Staffing

The implementation of this process should not require additional staffing. Rather, this approach is designed to utilize staff that are already interacting with their interagency counterparts, but in a more efficient way to achieve the goals of streamlining programmatic consultation efforts.

VII. Process for Working Groups and Framework for Dispute Resolution

The following working groups will be established in a manner that will facilitate implementing the MOA:

Program Level ESA Working Groups - Interagency teams of biologists responsible for ESA coordination and oversight of determination of effects at the plan/program level. The working group, which may consist of as few as two individuals (e.g., FWS biologist and FS biologist), is the basic operational unit of the streamlined programmatic consultation process. The group is responsible for ensuring that the best available scientific and commercial information on listed, proposed, and candidate species, or proposed or designated critical habitat, is considered in the decision making process, and facilitating achievement of ESA compliance in the shortest time possible. One team member should be identified as a logistical leader to schedule and facilitate meetings, etc. An individual should also be given the responsibility for tracking the consultation process and reporting outcomes to the regional technical support contact (see Regional/State Technical Working Group). Teams will communicate on a regular basis and meet as needed to facilitate the interagency coordination on ESA compliance. It is expected that most, if not all, potentially contentious ESA issues will be discussed and resolved at this level. Findings made in the Biological Assessment and other group decisions will be made by consensus.

Working group members may include Forest or BLM District/Resource Area wildlife or fisheries biologists and/or botanists, FWS Field Office wildlife or fisheries biologists and/or

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botanists, and NMFS biologists. Specific representation may vary by forest or resource area, administrative unit, or species involved, but these teams must have applicable agency representation to ensure that consensus can be achieved among the agencies involved in the MOA. For example, these teams could be established for each Forest or BLM District/Resource Area, or groups of Forests or BLM Districts/Resource Areas based on ecological provinces, watersheds, common issues, species, etc.

These teams will provide input to the design of proposed plans/programmatic activities to incorporate species habitat needs, identify programmatic proposals that may result in adverse impacts to species and critical habitat, and screen ongoing activities to ensure that reasonable and prudent alternatives to avoid jeopardy are not foreclosed.

Local Issue Resolution Working Groups - Interagency teams of decision makers at the Forest, BLM District/Resource Area, or state levels for other agencies, responsible for first level dispute resolution (Forest Supervisors, BLM District/Area Managers, FWS State Supervisors, NMFS designated supervisors). These teams would normally meet on an *ad hoc* basis to resolve issues elevated from the program level working group. Most effective use of these working groups will include early guidance on priorities, expectations, and policy as well as support for staffing. These teams could also be useful for working out coordination issues to help gain efficient use of program level working groups. Specific team representation depends upon the agency administrative units involved in the issue.

Regional/State Issue Resolution Working Group - Interagency teams of regional or state agency heads, i.e., the Regional Forester, BLM State Director, FWS Regional Director, and NMFS Regional Director. These teams will meet on an *ad hoc* basis to resolve issues elevated from the Local Issue Resolution Working Groups. Specific team representation depends upon the agency administrative units involved in the issue.

Regional/State Technical Support Working Group - In addition to the three level teams, interagency regional experts will be available for technical support to the other working groups. These individuals may consist of species biology experts, planners, program management experts, ecologists, etc. and are responsible for the overall technical oversight during the consultation process. This core technical support working group should meet on a regular basis to ensure that the process is functioning as intended. This working group may also have to meet on an *ad hoc* basis to respond to specific technical issue questions raised by the other working groups or enlist the support of other *ad hoc* members to provide additional expertise.

National Issue Resolution Working Group - Interagency teams of appropriate representatives of the FS, BLM, FWS, and NMFS responsible for resolution of issues not resolved by the Regional/State Issue Resolution Working Group. These teams will be appointed by the agency heads.

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The agencies have agreed to commit to completion of informal consultation within 30 days and formal consultation within 90 days. However, circumstances may dictate that the individual units may establish time frames that are appropriate to a specific action by mutual consent.

IX. Early Coordination

Early interagency coordination is the key to the streamlining consultation process. Coordination with consulting agencies early in the planning process, before initiation of consultation, will result in the identification of potential impacts to species and critical habitat. This will allow resource managers to make appropriate adjustments in proposed activities during the design phase. This early coordination will enable proposed plans/programmatic activities to incorporate species habitat needs, and will facilitate and expedite the consultation process. Issues to be resolved include:

1. Section 7 (d) of the ESA

Section 7 (d) of the ESA states that federal agencies “...shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable or prudent alternative measure” after the initiation of consultation. When action agencies formally consult on existing plans the agencies are required to ensure that any ongoing activities, including site-specific activities, resulting from or consistent with plans, do not result in any irreversible or irretrievable commitment of resources that have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives that could result from the programmatic consultation.

Compliance with section 7(d) of the ESA will be assured at the plan level because the agencies agree to conference on a plan as soon as a species is proposed for listing. If the conference opinion adequately addresses plan level effects and the conservation of the species, then the conference opinion should allow for an easy conversion to a biological opinion or concurrence when the species is listed. Absent any change in circumstances, no further consultation would be required. Furthermore, the action agencies will implement a logical and documented process to jointly "screen" site-specific projects prior to reinitiation of plan consultations following a new listing (if conferencing has not been completed). The screening process should identify any projects which could result in an irreversible or irretrievable commitment of resources that might foreclose the formulation or implementation of reasonable and prudent alternatives to avoid jeopardy. These projects will be modified, suspended, or halted during the programmatic consultation. The final determination of section 7(d) compliance will be the action agencies' responsibility, but it is expected that close coordination with the consulting agencies will occur.

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2. Species coverage

Agencies will consult/conference on listed species and designated critical habitat, proposed species, proposed critical habitat, and include candidate species as a part of the analysis of effects.

3. Agreement on the information needs for the development of the BA/BE

The program level working groups will review and make available current information on candidate, proposed and listed species and proposed or designated critical habitat within the planning areas. This should include information on status, population trends, response to management, disturbance regimes needed, interagency and state coordination measures required, and conservation opportunities.

Land management plan standards and guidelines (S&G's); programmatic recovery or conservation strategies (such as the Northwest Forest Plan, PACFISH, INFISH and the longterm red-cockaded woodpecker strategy); recovery plans; or applicable biological opinions from other consultations can serve as the basic foundation for programmatic consultations using the streamlined process. Land management plans/programs incorporating conservation S&G's will be more likely to provide beneficial effects to species. The basic goal is that land management plans/programs offering the protection of these S&Gs would not jeopardize listed or proposed species, or move candidate species closer to listing. Furthermore, to achieve the most conservation benefits from the planning process, the program level working group should identify programmatic conservation strategies helpful in formulating plan alternatives to minimize or avoid adverse effects to listed, proposed, or candidate species and, where possible, to assist in the conservation and recovery of these species per the Interagency MOU of 1994. These alternatives should be evaluated and reformulated into a consensus description of the proposed Federal action (the land management plan or program plus any additional agreed upon measures needed to work toward conservation of these species). For existing plans or programs, these conservation measures may be within the scope of the plan or program or may require plan amendment or modifications of the program. This process will comply with applicable laws and regulations for all agencies.

Agencies must agree on the level of information necessary in the BA/BE to be able to render a BO of sufficient detail. An agreed upon BA/BE is critical to ensure that the streamlined consultation process works and that the identified time frames are met. The beginning date for consultation is the day a BA/BE that is agreed upon by all members of the team is received by the consulting agency, accompanied by a written request for consultation or conference. It is imperative that the action agency submit only final BAs/BEs that all cooperating agencies deem adequate.

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The Program level working groups will identify parameters, or criteria that normally would result in "no effect", "not likely to adversely affect", "likely to adversely affect" and "likely to jeopardize" determinations on plan level effects analysis. This will be extremely useful in sorting, screening and reaching consensus on the BA/BE "determination of effects". This process will allow the team to reach rapid agreement on many aspects of the plan. More problematic elements (certain Standards and Guidelines (S&Gs), etc.) will then become the team's focus. If these problem areas need additional modification in the plan, these changes may be outlined in the description of action and the BA/BE. For example, if an additional objective or S&G is needed in an existing plan, the action to be consulted on would consist of the proposed new measure, in the context of the current S&Gs, and the actions needed to amend the plan and adopt the new measure. If the team cannot agree on the adequacy of the BA/BE, on the determination of effects, or information needed to complete the BA/BE, etc., the issue resolution process will be initiated.

5. Biological Assessment preparation

All anticipated environmental effects and mitigation and monitoring requirements will be disclosed in the BA/BE. This includes analysis of effects on listed, proposed, or candidate species or designated or proposed critical habitat from the plan/program analyzed.

ESA compliance is required regardless of the level of NEPA documentation required for a plan or program. A BA/BE for a plan or program that has an EA rather than an EIS, could be very short and simple, but the Program Level ESA Working Group should be used to help identify the level of documentation needed and appropriateness of the determination for all plan/program BA/BEs. Coordination requirements and conservation recommendations must be identified early in the decision making process so they can be incorporated into the plan/program under consultation, incorporated later as a plan amendment, or clarified as program direction.

The agreed upon elements of a BA/BE are:

- a. description of the action: reference the description of the proposed action section of the plan/program (do not duplicate it in the BE/BA, but incorporate by reference any needed documents and include them in the consultation package);
- b. description of the area that may be directly or indirectly affected by the action: if possible, refer to the appropriate action(s) of the plan/program rather than duplicating it in the BE/BA;

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- c. description of any listed, proposed or candidate species, or designated or proposed critical habitat that may be affected;
- d. description of the manner in which the action may affect listed, proposed or candidate species; or proposed or designated critical habitat (direct effects);
- e. analysis of indirect and cumulative effects;
- f. analysis of effects of interrelated and interdependent actions;
- g. analysis of effects of interrelated and interdependent actions;
- h. determination of effects statement; and
- i. may include any measures to minimize incidental take, as well as specifying measures to handle or dispose of any individuals actually taken.

The action agency will prepare a BA/BE based on the above agreements in the cooperative spirit of the MOA and will submit it to the consulting agency (a joint meeting between the action agencies and the consulting agencies may be the most efficient way to develop these BA/BEs). The consulting agency will then review the BA/BE for adequacy within two weeks of receipt. Because of the early interagency coordination described above, this is not likely to result in the identification of substantial issues. However, if the BA/BE is deemed inadequate, the consulting agency will notify the action agency in writing detailing specific issues and indicating that the time frame for the formal consultation or concurrence letter has not started.

6. Biological Opinion Preparation

The consulting agency will provide a draft of their consultation response for action agency review no later than two weeks before the end of the agreed upon consultation period. Any reasonable and prudent measures and terms and conditions for incidental take should be discussed and agreed to by the interagency consultation team prior to issuance of a final BO or conference opinion.

X. Dispute Resolution Process

The use of interagency working groups and a National Issue Resolution working group are designed to ensure that any disagreements on completeness of the BA/BE, determination of effects, or contents of a draft BO or conference opinion are resolved in a coordinated and timely manner.

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If the Program Level ESA Working Group cannot reach consensus on what information is needed to complete consultation/conference on a plan/program, determination of effects, the adequacy of the plan standards and guides, compliance with existing guidance, conservation strategies, etc., a review will be conducted by the Local Issue Resolution Working Group. The employment of regional section 7 consultation specialists may be useful in resolving such disputes. If the Local Issue Resolution Working Group cannot resolve the issue or if there is disagreement between one of the agencies and the consensus findings of the Program Level ESA Working Group (team is in agreement) a Regional/State Issue Resolution Working Group review will be initiated. If this group cannot resolve the issue, it will be elevated to the National Issue Resolution Working Group.

All issue resolution working group (or panel) reviews should be initiated by request of the applicable working group, or a specific agency. The request should include: (1) A concise summary of issues in dispute and decisions that need to be made; (2) agency position statements on each of the issues; (3) all supporting rationale and documentation for consideration; and (4) a brief chronology of key actions taken to resolve the dispute. Resolution should be pursued as quickly as possible. The National Issue Resolution Working Group decisions are the final and binding resolution of disputes. Issue resolution working groups are encouraged to use the assistance of the Regional/State Technical Support Working Group in the resolution process.

Each stage of the issue resolution process will not exceed 15 days.

XI. Evaluation and Refinement

To facilitate a process of the utmost utility to the agencies, The Regional/State Technical Support Working Group should implement measures to track the progress of the process described above and propose any refinements necessary to further the goals of the MOA to agency heads.

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